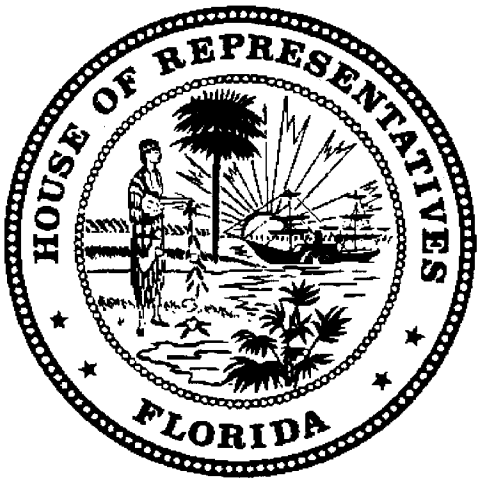

Growth Management Committee

Tuesday, March21, 2006
2:15 PM – 5:15 PM
212 Knott Building

Allan G. Bense
Speaker

Randy Johnson
Chair

Florida House of Representatives
Growth Management Committee

Allan Bense
Speaker

Randy Johnson
Chair

AGENDA

GROWTH MANAGEMENT COMMITTEE
Tuesday, March 21, 2006
2:15 PM – 5:15 PM
212 Knott Building

I. Meeting Called to Order

II. Opening Remarks by Chairman

III. Consideration of the following bill(s):

HB 683 CS by Rep. Traviesa – Growth Management
HB 1309 by Rep. Jennings – Local Housing Assistance
HB 1363 by Rep. M. Davis, Affordable Housing

IV. Consideration of the following proposed committee bill:

PCB GM 06-01 – Growth Management

V. Workshop the following:

CS/CS/CS SB 360 Policy Refinements
CS/CS/CS SB 360 New Issues

VI. Meeting Adjourned

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 683 CS Growth Management
SPONSOR(S): Traviesa
TIED BILLS: **IDEN./SIM. BILLS:** SB 1020

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council	8 Y, 0 N, w/CS	Strickland	Hamby
2) Growth Management Committee		Strickland BS.	Grayson
3) Transportation & Economic Development Appropriations Committee			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

HB 683 w/CS makes several changes to existing law governing developments of regional impact (DRI) as outlined below:

- Makes revisions to current statutory law relating to a binding letter determination made by the Department of Community Affairs (DCA);
- Makes various revisions and additions to the existing statutory law pertaining to development orders and permits issued by local governments;
- Revises the definition of an "essentially built out development;"
- Provides bonuses for a developer providing a certain level of affordable housing;
- Revises the criteria under which a proposed change is presumed to create a substantial deviation requiring further review;
- Requires that notice of certain changes be given to DCA, regional planning agency, and local government, as well as requires that a memorandum of notice of certain changes be filed with the clerk of court;
- Revises the period of time for notice and a public hearing after a change to a development order;
- Revises statutory exemptions to the DRI process;
- Revises how certain statewide guidelines and standards are applied to determine whether a development must undergo DRI review;
- Revises existing law pertaining to consistency challenges made to a DRI development order;
- Revises the vested rights and duties as they relate to provisions of this bill taking effect; and
- Amends the legislative findings and the definition of "recreational and commercial working waterfronts."

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill streamlines aspects of the development of regional impact (DRI) process, thereby reducing responsibilities for governmental and private organizations.

Safeguard individual liberty - The bill reduces government oversight of some activities presently reviewed as DRIs, and thereby increases the options of individuals regarding the conduct of their own affairs.

B. EFFECT OF PROPOSED CHANGES:

Background

Section 380.06, F.S., governs the development of regional impact (DRI) program and establishes the basic process for DRI review. The DRI program is a vehicle that provides state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county. For those land uses that are subject to review, numerical thresholds are identified in s. 380.0651, F.S., and Chapter 28-24, F.A.C. Examples of the land uses for which guidelines are established include:

- airports; attractions and recreational facilities;
- industrial plants and industrial parks;
- office parks;
- port facilities, including marinas;
- hotel or motel development;
- retail and service development;
- recreational vehicle development;
- multi-use development;
- residential development; and
- schools.

The DRI review process involves the regional review of proposed developments meeting the defined thresholds by the regional planning councils to determine the extent to which:

- The development will have a favorable or unfavorable impact on state or regional resources or facilities;
- The development will significantly impact adjacent jurisdictions; and
- The development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

Percentage thresholds, as defined in 380.06(2)(d), F.S., are applied to the guidelines and standards. These fixed thresholds provide that if a development is at or below 100% of all numerical thresholds in the guidelines, the project is not required to undergo DRI review. If a development is at or above 120% of the guidelines, it is required to undergo DRI review. A rebuttable presumption is established whereby a development at 100% of a numerical threshold, or between 100-120% of a numerical threshold, is presumed to require DRI review.

If there is a concern over whether a particular development is subject to DRI review, the developer may request a determination from the DCA. DCA or the local government with jurisdiction over the land to be used for the proposed development may require a developer to obtain a binding letter of interpretation if the development is at a presumptive threshold or up to 20 % above the established numerical threshold. Any other local government may petition DCA to require a binding letter of interpretation for a development located in an adjacent jurisdiction if the petition contains sufficient facts to find that the development as proposed constitutes a DRI.

Under s. 380.06(19), F.S., any proposed change to a previously approved DRI which creates a reasonable likelihood of additional regional impact or any type of regional impact, resulting from a change not previously reviewed by the regional planning council, constitutes a "substantial deviation" that subjects the development to further DRI review and entry of a new or amended local development order. Section 380.06(19), F.S., provides that a proposed change to a previously approved DRI which, either individually or cumulatively with other changes, exceeds specified criteria constitutes a substantial deviation and is subject to further DRI review.

The extension of the date of buildout of a development, or any phase thereof, of 5 years or more but less than 7 years is presumed not to create a substantial deviation. However, the extension of buildout by 7 or more years is presumed to create a substantial deviation and is subject to further DRI review. However, this presumption may be rebutted by clear and convincing evidence at the public hearing held by the local government. When calculating whether a buildout date has been exceeded, time is tolled during the pendency of administrative or judicial proceedings relating to development permits.

Marinas

In 2002, the Legislature created an exemption for marinas from DRI review. This exempting occurs if the local government has adopted a boating facility siting plan or policy within its comprehensive plan.

The DCA, in cooperation with the Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission, makes available a best practices guide to assist local governments in developing boating facility siting plans. A boating facility siting plan provides a framework for identifying locations that can accommodate boating interests while protecting manatees, seagrass beds, and other marine resources.

Multiuse Developments

Section 380.06(2)(e), F.S., increases the applicable guidelines and standards by 100 % for multiuse projects in urban central business districts and regional activity centers if the local government's comprehensive plan is in compliance with part II of ch. 163, F.S., and if one land use in the mulituse development is residential and amounts to not less than 35 % of the jurisdiction's applicable residential threshold. An urban central business district is defined as the urban core area of a municipality with a population of 25,000 or greater which is located within an urbanized area as identified in the 1990 census. Such a district must contain high intensity, high density multi-use development which includes "retail, office, cultural, recreational and entertainment facilities, hotels or motels, or other appropriate industrial activities." A regional activity center is defined as a compact, high intensity, high density multi-use area that is designated appropriate for intensive growth by the local government. It includes the same uses as an urban central business district.

Currently, the individual DRI threshold is increased by 50 % within an urban central business district or a regional activity center. However, the multiuse DRI threshold within such a district or center enjoys a 100 % increase.

Development Order (DO) Appeals

Currently there are two mechanisms by which an appeal may be sought on the grounds that a DO rendered for a DRI is inconsistent with the comprehensive plan adopted by the local government. The first is to appeal a development order under s.163.3215, F.S., within the circuit court with proper jurisdiction. The second is to appeal a development order under s. 380.06, F.S., to the Florida Land and Water Adjudicatory Commission (FLWAC).

Under existing law (s. 163.3215, F.S.), an "aggrieved or adversely affected party" may bring an appeal to challenge local government's issuance of a development order (an order of local government granting, denying, or granting with conditions, an application for a development permit) as not being consistent with the local comprehensive plan. Appeals of this type are filed in the local circuit court. Existing law also contains another opportunity to appeal the local government's issuance of a development order. Under another section of existing law (s. 380.07, F.S.) the owner, the developer, or the DCA may appeal a development order that relates to a DRI to the Florida Land and Water Adjudicatory Commission (FLWAC). Further, it is possible for the same development order to be challenged in both the circuit court and FLWAC. In such instances, the two challenge processes may lead to different results causing confusion for all the affected interests.

Effect of Proposed Change

HB 683 w/CS amends existing law and creates new law related to DRI. A DRI by definition is "any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county." Specifically, the bill addresses law establishing:

- A process for review of DRIs and for the issuance of a DO which details specifics regarding the scope and timing of the development and serves as the authority to commence and complete the development;
- What constitutes a "substantial deviation" of the DO which would necessitate additional review;
- Statutory exemptions that prevent DRI review;
- Statewide guidelines and standards for determining what activities require DRI review; and
- Vested rights and associated duties of the respective parties.

Details of the changes to existing law are outlined below.

Binding Letter and Development Order

The bill amends existing law to allow either a developer or the local government having jurisdiction over a DRI to ask DCA to determine whether the local government may issue permits for development subsequent to the buildout date. The determination may take the form of a formal binding letter or an informal clearance letter. Specifically, the determination is whether the DRI meets criteria newly created in s. 380.06(15)(g)3, F.S., which provides that:

- The developer has satisfied all mitigation required in the DO.
- The development is in compliance with all applicable terms and conditions of the DO, except the buildout date; and
- The amount of remaining proposed development is less than 20% of any applicable DRI threshold.

This new feature provides for limited development beyond the DRI buildout date when the existing and remaining development meets the criteria.

The bill allows a project to be considered "essentially built out" if:

- All of the infrastructure and horizontal development is complete; and
- More than 80% of the parcels have been conveyed to third-party buyers.

The bill amends the following statutory provisions relating to DOs:

- Termination date – Existing law provides that the local government's DO specify a "termination date" before which certain land use changes would not apply to the approved DRI unless a substantial deviation occurs. The bill amends existing law to provide that the DO may not specify that date as being earlier than the "buildout date." s. 380.06(15)(c)3., F.S.
- Notice of proposed change – Existing law provides that the DO may specify the types of changes which would require a substantial deviation determination. The bill amends existing law by extending that language to include a "notice of proposed change." s. 380.06(15)(c)5., F.S.
- Competitive bidding or competitive negotiation – Existing law provides that a local government may require competitive bidding or competitive negotiation where construction or expansion of a public facility is conducted by a nongovernmental developer as a condition of a DO or to mitigate impacts reasonably attributable to the development. The bill amends existing law by removing that discretion and thus disallows local government from requiring competitive bidding. s. 380.06(15)(d)4., F.S.

Substantial Deviations

The bill amends existing law pertaining to the percentage and unit thresholds and provides for a presumption that the activities trigger DRI review. Existing law strictly requires DRI review when percentage and unit thresholds are met or exceeded. The amended percentage and unit thresholds follow.

- Attraction or recreational facility - The bill amends the thresholds to the greater of an increase of 10% or 330 parking spaces (from 5% or 300 spaces), or an increase to the greater of 10% or 1,100 spectators.
- Runway or terminal facility - The bill does not amend the threshold concerning a "runway or terminal facility."
- Hospitals – The bill deletes the threshold for hospitals.
- Industrial – The bill amends the threshold to the greater of 10% or 35 acres (from 5% or 32 acres).
- Mines - The bill amends the threshold to the greater of an increase in the average annual acreage mined by 10 % or 11acres (from 5% or 10 acres) or to the greater of an increase in the average daily water consumption by a mining operation by 10 % or 330,000 gallons (from 5% or 300,000 gallons). It is further amended to the greater of an increase of the size of the mine by 10% or 825 acres (from 5% or 750 acres).

- Office development – The bill amends the threshold to the greater of an increase in land area by 10 % (from 5%) or an increase of gross floor area by 10 % (from 5%) or 66,000 square feet (from 60,000).

- Marina development – The bill creates a threshold to the greater of 10% of wet storage or 30 watercraft slips; or to the greater of 20% of wet storage or 60 watercraft slips in an area identified by a local government in a boat facility siting plan as an appropriate site for additional marina development.

- Storage capacity for chemical or petroleum storage facilities – The bill deletes the threshold for these facilities.

- Waterport or wet storage – The bill deletes the threshold for waterport or wet storage.

- Dwelling units – The bill amends the threshold to the greater of 10% or 55 dwelling units (from 5% or 50 dwelling units).

- Workforce housing dwelling units – The bill creates a threshold to the greater of 15% or 100 units, provided that 20% of the increase in the number of dwelling units is restricted to the construction of workforce housing (affordable to a person who earns less than 120% of the area median income).

- Commercial development – The bill amends the threshold to the greater of 55,000 square feet (from 50,000 square feet) of gross floor area; or of parking spaces for customers for 330 cars (from 300 cars); or a 10% increase (from 5% increase) of either of these.

- Hotel or motel rooms – The bill amends the threshold to the greater of an increase in hotel or motel rooms by 10% or 83 rooms (from 5% or 75 units).

- Recreational vehicle park area – The bill amends the threshold to the lesser of an increase in a recreational vehicle park area by 10% (from 5%) or 110 vehicle spaces.

- Approved multiuse DRI – The bill amends the threshold to 110% of the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria.

The bill amends existing law in the following ways relating to presumptions concerning substantial deviations:

- Presumption of a substantial deviation – A presumption of substantial deviation is created by an extension of the buildout date of more than 7 years (from 7 or more years).

- Presumption of no substantial deviation – A presumption of no substantial deviation is created by an extension of the buildout date of more than 5 years (from 5 or more years), but less than 7 years.

- No substantial deviation - An extension of the buildout date of 5 years or less (from less than 5 years) is not a substantial deviation.

The bill establishes that the following changes do not constitute substantial deviations:

- Protected lands -

- The bill provides that changes that modify boundaries due to science-based refinement of such areas by survey, habitat evaluation, other recognized assessment methodology, or an environmental assessment.

- The bill provides that this only applies to areas previously set aside for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State.

The bill amends existing law to provide for notice prior to implementation of the types of non substantial deviation changes addressed above. The specific requirements are as follows:

- Notice - The developer must give 45 days notice to DCA, the regional planning agency, and the local government.

- Objections - If any of these entities object within the provided period, the change shall require the developer to submit a "notice of proposed change" which shall be "presumed not to be a substantial deviation."

- Circuit Court Filing – A memorandum of the notice must be filed with the clerk of the circuit court along with a legal description of the affected DRI.

- Subsequent Changes - If a subsequent change requiring a substantial deviation determination is made to the DRI, then modifications to the DRI made in all prior notices must be reflected as amendments to the DO.

The bill amends existing law as it pertains to proposed changes that require further DRI review as follows:

- Scope of mitigation – The bill amends existing law to limit the scope of mitigation required as a result of a proposed change to a DO. The amended language limits such new mitigation to the individual and cumulative impacts caused only by the proposed change.

- Continuance of development – The bill amends existing law by providing that development within the DRI may continue during the DRI review in those portions of the development which are not "directly" affected by the proposed change.

Statutory Exemptions

The bill amends current DRI exemptions providing that if a use is exempt from review as a DRI under the following circumstances or any other paragraphs under this subsection, but is a part of a larger project that is subject to review as a DRI, the impact of the exempt use must be included in the review of the larger project.

- Hospitals – The bill removes the 100 bed capacity limitation; thus providing that all hospitals are exempt.

- Steam or solar electrical generating facility - The bill removes the exception of a steam or solar electrical generating facility of less than 50 megawatts in capacity attached to a DRI from the exemption for proposed electrical transmission lines or electrical power plants.

- Adjacent jurisdictions – The bill amends existing law which allows a DRI exemption for certain proposed development within an urban service area. The amendment changes one of the criteria for the exemption that requires a binding agreement with adjacent jurisdictions and the

Department of Transportation (DOT) regarding impacts on state and regional transportation facilities. The amendment changes the requirement so that the binding agreement must be entered into with jurisdictions "that would be impacted" and DOT.

The bill creates five new exemptions to existing law as follows:

- Self storage warehousing – The bill provides an exemption for any self-storage warehousing that does not allow retail or other services.

- Nursing home or assisted living facility – The bill provides an exemption for any proposed nursing home or assisted living facility.

- Airport master plan – The bill provides an exemption for any development identified in an airport master plan and adopted into the comprehensive plan.

- Campus master plan – The bill provides an exemption for any development identified in a campus master plan and adopted pursuant to s. 1013.30, F.S. (related to campus master plans and campus DOs).

- Specific area plan – The bill provides an exemption for any development in a specific area plan which is prepared pursuant to s. 163.3245, F.S, (related to optional sector plans) and adopted into the comprehensive plan.

Additional new language provides that if a use is exempt from DRI review but is part of a larger project that is subject to DRI review, then the exempt use must be included in review of the larger project.

Partial Exemptions

The bill creates new law limiting the requirement that two exemptions only will apply if the local government has entered into a binding agreement with DOT and jurisdictions "that would be impacted."

- Urban service boundaries (USB) – The bill provides that if the binding agreement is not entered into within 12 months after establishment of the USB, then DRI review shall address transportation impact only.

- Urban infill and redevelopment area – The bill provides that if the binding agreement is not entered into within 12 months after the designation of the area or July 1, 2007, whichever occurs later, then DRI review shall address transportation impacts only.

- Notification to DCA - The bill provides that notification must be submitted by the local government to DCA stating that the local government either does not wish, or has not been able, to enter into a binding agreement within the 12 month period, after which, the DRI within the USB or urban infill and redevelopment area must address transportation impacts only.

Statewide Guidelines and Standards

The bill amends existing law addressing how certain statewide guidelines and standards are applied to determine whether a development must undergo DRI review.

- Port facilities – The bill adds "marina" to "port facilities" as a development to be required to undergo DRI review and provides criteria requiring DRI review rather than excepting certain activities as provided in existing law. Deletes all dry storage as a use requiring DRI review.

- Wet Storage – The criteria requiring DRI review are provided as follows:

- Wet storage or mooring of more than 150 watercraft used for sport, pleasure, or commercial fishing. Under existing law, wet storage or mooring must be used "exclusively" for wet storage or mooring.

- Wet storage or mooring of more than 150 watercraft on or adjacent to an inland freshwater lake (except Lake Okeechobee or any lake that has been designated as an Outstanding Florida Water).

- Workforce housing – The bill creates an increased threshold (increased by 20%) for residential development and the residential component for multiuse development when the developer demonstrates that at least 15 % of the residential dwelling units will be dedicated to housing that is affordable to a person who earns less than 120% of the area median income, i.e., workforce housing.

The bill creates an incentive allowing a doubling of numeric thresholds for proposed marina developers who enter into a binding agreement to set aside at least 15% of wet storage or moorings for public use or rental.

The bill excludes subthreshold exceptions from applying to marina facilities located within or which serve physical development located within a coastal barrier resource unit on an unbridged barrier island.

Additionally, the bill increases the exemption threshold for certain projects for which no environmental resource permit or sovereign submerged land lease is required. The threshold is increased to 75 slips or storage spaces or a combination of the two. Existing law contains a 10 slip or storage space or combination threshold.

Florida Land and Water Adjudicatory Commission (FLWAC)

The bill amends existing law related to challenges of a DO based on consistency to provide the following:

- Consistency challenges – The bill allows the appeal of a DO to FLWAC by DCA to include consistency with the local comprehensive plan. If a challenge to the DO relating to the DRI has been filed under s. 163.3215, F.S., and notice is served on DCA, then the DCA must intervene in that pending proceeding and raise its consistency issues within 30 days after service. Further, DCA must dismiss the consistency issues from its DO appeal to the FLWAC. The filing of the petition stays the effectiveness of the DO until after completion of the appeal process.

Vested Rights and Duties

The bill amends existing law related to the vested rights of DRIs. The amendment makes changes as follows:

- The bill provides that vested rights are not abridged or modified by a change in the DRI guidelines and standards.

- The bill revises the procedures affecting a DRI which is no longer required to undergo DRI review because of a change in the guidelines or standards, or because of a reduction that lowers the development below the thresholds.

- The bill provides that the local government having jurisdiction shall rescind the DO upon a showing by the developer or the landowner that all required mitigation related to the amount that existed on the date of rescission has been completed.

- The bill provides that unless the developer follows this procedure, the DRI continues to be governed by, and may be completed in reliance upon, the DO.

- The bill provides that if an application for development approval, or a notification of proposed change, is pending on the effective date of a change to the guidelines and standards, then the development may elect to continue the DRI review which is governed by the vested rights provision.

Recreational and Commercial Working Waterfronts

The bill amends existing law relating to the legislative findings and the definition of "recreational and commercial working waterfront" in the following ways:

- Legislative findings – The bill amends the findings as follows:
  - The bill expands the statement of important state interest to include "other recreation access" to the state's navigable waters.
  - The bill adds tourism, with a $57 billion annual economic impact, as a vital industry to be protected.
  - The bill adds a statement that by expanding the importance of water access beyond recreational users to include "tourist."
  - The bill adds "public lodging establishments" to those water-dependent support facilities as important state interests to be maintained.
- Definition of "recreational and commercial working waterfront" – The bill adds "water-dependent recreational activities including public lodging establishments as defined in chapter 509" to the definition.

C. SECTION DIRECTORY:

Section 1: Amends ss. 380.06(2)(d), (7)(b), (15), (19), and (24), F.S., relating to developments of regional impact (DRI).

Section 2: Amends s. 380.0651, F.S., relating to statewide guidelines and standards for determining what development activities must undergo DRI review.

Section 3: Creates s. 380.07, F.S., relating to the Florida Land and Water Adjudicatory Commission.

Section 4: Amends s. 380.115, F.S., relating to vested rights and duties of DRI projects as it relates to the provisions of this bill taking effect.

Section 5: Amends s. 163.3180, F.S., relating to recreational and commercial working waterfronts; legislative findings; and definitions.

Section 6: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   The bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The development community would benefit from increased thresholds and expanded exemptions from the DRI review process.

D. FISCAL COMMENTS:

No additional fiscal comments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

There do not appear to be other constitutional issues with the bill.

B. RULE-MAKING AUTHORITY:

This bill does not include any rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

There do not appear to be any drafting issues.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 8, 2006, the Local Government Council adopted a strike-all amendment. The strike-all amendment made changes to the original filed bill as outlined below.

- Biennial Reports:
  - Removes the requirement to submit biennial rather than annual reports.
  - Removes the penalty for failure to submit a biennial report.
- Rulemaking: Removes the requirement for DCA to initiate rulemaking by August 1, 2006 to revise the DRI review process.
- Substantial Deviations:
  - Thresholds: Lowers, across the board, the substantial deviation thresholds (which are still slightly higher than those in existing law).
    - Doubles the threshold for marinas under certain circumstances
  - Triggering Time Periods: Changes the time periods relative to triggering a substantial deviation:
    - More than 7 years creates a presumption of a substantial deviation.

        - More than 5 years, but less than 7 years, creates a presumption of no substantial deviation.
        - Five years or less does not constitute a substantial deviation.
    - Activities That Do No Trigger: Removes "internal utility locations" and "internal location of public facilities" as activities that expressly do not constitute substantial deviations.
    - Workforce Housing: Creates a substantial deviation threshold bonus for the provision of workforce housing.
- DRI Exemptions:
    - Restores the term "waterport" in conjunction with marinas as relates to certain exemptions.
    - Removes exceptions from transportation concurrency as a new exemption to DRI review.
- Urban Service Area Binding Agreement:
    - Substitutes language describing what constitutes a statutory exemption; replacing the phrase "jurisdictions that would be impacted" for the phrase "contiguous jurisdiction."
    - Establishes that if local government fails to enter into a binding agreement within 12 months, then the DRI review is limited to transportation issues only. Further, local government must report to DCA such failure to enter a binding agreement.
- Statewide Guidelines and Standards for Determining Whether a Particular Activity Undergoes DRI Review:
    - Restores to existing statutory language the guidelines and standards related to: airports; attractions & recreation facilities; schools; and aggregation.
    - Restores "port facility" in conjunction with marinas related to statewide guidelines and standards.
    - Reestablishes existing law related to spaceport launch facilities and concurrency.
    - Workforce Housing: Creates a bonus against the applicable guidelines for the provision of workforce housing.
- Consistency Challenges: Further revises procedures for consistency challenges to FLWAC.
- Binding Letter:
    - Authorizes local governments in addition to the developer to request a binding letter.
    - Expands DCA's authority to issue a clearance letter to determine whether the amount of development that remains to be built will constitute "essentially built- out."
- Working Waterfront: Adds tourism and its economic impact to the legislative findings; and adds "public lodging establishments" and "recreational activities"; to existing law relating to working waterfronts.

CHAMBER ACTION

The Local Government Council recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to growth management; amending s. 380.06, F.S.; providing for the state land planning agency to determine the amount of development that remains to be built in certain circumstances; specifying certain requirements for a development order; revising the circumstances in which a local government may issue permits for development subsequent to the buildout date; revising the definition of an essentially built-out development; revising the criteria under which a proposed change constitutes a substantial deviation; clarifying the criteria under which the extension of a buildout date is presumed to create a substantial deviation; requiring notice of any change to certain set-aside areas be submitted to the local government; requiring that notice of certain changes be given to the state land planning agency, regional planning agency, and local government; requiring 45 days' notice to specified entities and publication of a public notice for certain proposed

changes; requiring that a memorandum of notice of certain changes be filed with the clerk of court; revising the requirement for further development-of-regional-impact review of a proposed change; revising the statutory exemptions from development-of-regional-impact review for certain facilities; providing statutory exemptions for the development of certain facilities; providing that the impacts from an exempt use that will be part of a larger project be included in the development-of-regional-impact review of the larger project; amending s. 380.0651, F.S.; revising the statewide guidelines and standards for development-of-regional-impact review of certain types of developments; allowing the state land planning agency to consider the impacts of independent developments of regional impact cumulatively under certain circumstances; amending s. 380.07, F.S.; eliminating the appeal of development orders within a development of regional impact to the Florida Land and Water Adjudicatory Commission; amending s. 380.115, F.S.; providing that a change in a development-of-regional-impact guideline and standard does not abridge or modify any vested right or duty under a development order; providing a process for the rescission of a development order by the local government in certain circumstances; providing an exemption for certain applications for development approval and notices of proposed changes; amending s. 342.07, F.S.; adding recreational activities as an important state interest; including public lodging establishments within the

definition of the term "recreational and commercial working waterfront"; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (a) and (i) of subsection (4) and subsections (15), (19), and (24) of section 380.06, Florida Statutes, are amended, and subsection (28) is added to that section, to read:

380.06 Developments of regional impact.--

(4) BINDING LETTER.--

(a) If any developer is in doubt whether his or her proposed development must undergo development-of-regional-impact review under the guidelines and standards, whether his or her rights have vested pursuant to subsection (20), or whether a proposed substantial change to a development of regional impact concerning which rights had previously vested pursuant to subsection (20) would divest such rights, the developer may request a determination from the state land planning agency. The developer or the appropriate local government having jurisdiction may request that the state land planning agency determine whether the amount of development that remains to be built in an approved development of regional impact meets the criteria of subparagraph (15)(g)3.

(i) In response to an inquiry from a developer or the appropriate local government having jurisdiction, the state land planning agency may issue an informal determination in the form of a clearance letter as to whether a development is required to

undergo development-of-regional-impact review, or whether the amount of development that remains to be built in an approved development of regional impact meets the criteria of subparagraph (15)(g)3. A clearance letter may be based solely on the information provided by the developer, and the state land planning agency is not required to conduct an investigation of that information. If any material information provided by the developer is incomplete or inaccurate, the clearance letter is not binding upon the state land planning agency. A clearance letter does not constitute final agency action.

(15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

(a) The appropriate local government shall render a decision on the application within 30 days after the hearing unless an extension is requested by the developer.

(b) When possible, local governments shall issue development orders concurrently with any other local permits or development approvals that may be applicable to the proposed development.

(c) The development order shall include findings of fact and conclusions of law consistent with subsections (13) and (14). The development order:

1. Shall specify the monitoring procedures and the local official responsible for assuring compliance by the developer with the development order.

2. Shall establish compliance dates for the development order, including a deadline for commencing physical development and for compliance with conditions of approval or phasing requirements, and shall include a buildout ~~termination~~ date that

reasonably reflects the time anticipated ~~required~~ to complete the development.

3. Shall establish a date until which the local government agrees that the approved development of regional impact shall not be subject to downzoning, unit density reduction, or intensity reduction, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of the development order have occurred or the development order was based on substantially inaccurate information provided by the developer or that the change is clearly established by local government to be essential to the public health, safety, or welfare. The date established pursuant to this subparagraph shall be no sooner than the buildout date of the project.

4. Shall specify the requirements for the biennial report designated under subsection (18), including the date of submission, parties to whom the report is submitted, and contents of the report, based upon the rules adopted by the state land planning agency. Such rules shall specify the scope of any additional local requirements that may be necessary for the report.

5. May specify the types of changes to the development which shall require submission for a substantial deviation determination or a notice of proposed change under subsection (19).

6. Shall include a legal description of the property.

(d) Conditions of a development order that require a developer to contribute land for a public facility or construct,

expand, or pay for land acquisition or construction or expansion of a public facility, or portion thereof, shall meet the following criteria:

1. The need to construct new facilities or add to the present system of public facilities must be reasonably attributable to the proposed development.

2. Any contribution of funds, land, or public facilities required from the developer shall be comparable to the amount of funds, land, or public facilities that the state or the local government would reasonably expect to expend or provide, based on projected costs of comparable projects, to mitigate the impacts reasonably attributable to the proposed development.

3. Any funds or lands contributed must be expressly designated and used to mitigate impacts reasonably attributable to the proposed development.

4. Construction or expansion of a public facility by a nongovernmental developer as a condition of a development order to mitigate the impacts reasonably attributable to the proposed development is not subject to competitive bidding or competitive negotiation for selection of a contractor or design professional for any part of the construction or design ~~unless required by the local government that issues the development order~~.

(e)1. ~~Effective July 1, 1986,~~ A local government shall not include, as a development order condition for a development of regional impact, any requirement that a developer contribute or pay for land acquisition or construction or expansion of public facilities or portions thereof unless the local government has enacted a local ordinance which requires other development not

subject to this section to contribute its proportionate share of the funds, land, or public facilities necessary to accommodate any impacts having a rational nexus to the proposed development, and the need to construct new facilities or add to the present system of public facilities must be reasonably attributable to the proposed development.

2. A local government shall not approve a development of regional impact that does not make adequate provision for the public facilities needed to accommodate the impacts of the proposed development unless the local government includes in the development order a commitment by the local government to provide these facilities consistently with the development schedule approved in the development order; however, a local government's failure to meet the requirements of subparagraph 1. and this subparagraph shall not preclude the issuance of a development order where adequate provision is made by the developer for the public facilities needed to accommodate the impacts of the proposed development. Any funds or lands contributed by a developer must be expressly designated and used to accommodate impacts reasonably attributable to the proposed development.

3. The Department of Community Affairs and other state and regional agencies involved in the administration and implementation of this act shall cooperate and work with units of local government in preparing and adopting local impact fee and other contribution ordinances.

(f) Notice of the adoption of a development order or the subsequent amendments to an adopted development order shall be

recorded by the developer, in accordance with s. 28.222, with the clerk of the circuit court for each county in which the development is located. The notice shall include a legal description of the property covered by the order and shall state which unit of local government adopted the development order, the date of adoption, the date of adoption of any amendments to the development order, the location where the adopted order with any amendments may be examined, and that the development order constitutes a land development regulation applicable to the property. The recording of this notice shall not constitute a lien, cloud, or encumbrance on real property, or actual or constructive notice of any such lien, cloud, or encumbrance. This paragraph applies only to developments initially approved under this section after July 1, 1980.

(g) A local government shall not issue permits for development subsequent to the buildout ~~termination date or expiration~~ date contained in the development order unless:

1. The proposed development has been evaluated cumulatively with existing development under the substantial deviation provisions of subsection (19) subsequent to the termination or expiration date;

2. The proposed development is consistent with an abandonment of development order that has been issued in accordance with the provisions of subsection (26); ~~or~~

3. The development of regional impact is essentially built out, in that all the mitigation requirements in the development order have been satisfied, all developers are in compliance with all applicable terms and conditions of the development order

except the buildout date, and the amount of proposed development that remains to be built is less than 20 percent of any applicable development-of-regional-impact threshold; or

4.~~3.~~ The project has been determined to be an essentially built-out development of regional impact through an agreement executed by the developer, the state land planning agency, and the local government, in accordance with s. 380.032, which will establish the terms and conditions under which the development may be continued. If the project is determined to be essentially built out ~~built-out~~, development may proceed pursuant to the s. 380.032 agreement after the termination or expiration date contained in the development order without further development-of-regional-impact review subject to the local government comprehensive plan and land development regulations or subject to a modified development-of-regional-impact analysis. As used in this paragraph, an "essentially built-out" development of regional impact means:

a. The developers are ~~development is~~ in compliance with all applicable terms and conditions of the development order except the buildout ~~built-out~~ date; and

b.(I) The amount of development that remains to be built is less than the substantial deviation threshold specified in paragraph (19)(b) for each individual land use category, or, for a multiuse development, the sum total of all unbuilt land uses as a percentage of the applicable substantial deviation threshold is equal to or less than 100 percent; or

(II) The state land planning agency and the local government have agreed in writing that the amount of development

to be built does not create the likelihood of any additional regional impact not previously reviewed.

In addition to the requirements of subparagraphs 3. and 4., the single-family residential portions of a development may be considered "essentially built out" if all of the infrastructure and horizontal development have been completed, at least 50 percent of the dwelling units have been completed, and more than 80 percent of the lots have been conveyed to third-party individual lot owners or to individual builders who own no more than 40 lots at the time of the determination.

(h) If the property is annexed by another local jurisdiction, the annexing jurisdiction shall adopt a new development order that incorporates all previous rights and obligations specified in the prior development order.

(19) SUBSTANTIAL DEVIATIONS.--

(a) Any proposed change to a previously approved development which creates a reasonable likelihood of additional regional impact, or any type of regional impact created by the change not previously reviewed by the regional planning agency, shall constitute a substantial deviation and shall cause the proposed change ~~development~~ to be subject to further development-of-regional-impact review. There are a variety of reasons why a developer may wish to propose changes to an approved development of regional impact, including changed market conditions. The procedures set forth in this subsection are for that purpose.

(b) Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the following criteria shall constitute a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review without the necessity for a finding of same by the local government:

1. An increase in the number of parking spaces at an attraction or recreational facility by 10 ~~5~~ percent or 330 ~~300~~ spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 10 ~~5~~ percent or 1,100 ~~1,000~~ spectators, whichever is greater.

2. A new runway, a new terminal facility, a 25-percent lengthening of an existing runway, or a 25-percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates.

~~3. An increase in the number of hospital beds by 5 percent or 60 beds, whichever is greater.~~

3.~~4.~~ An increase in industrial development area by 10 ~~5~~ percent or 35 ~~32~~ acres, whichever is greater.

4.~~5.~~ An increase in the average annual acreage mined by 10 ~~5~~ percent or 11 ~~10~~ acres, whichever is greater, or an increase in the average daily water consumption by a mining operation by 10 ~~5~~ percent or 330,000 ~~300,000~~ gallons, whichever is greater. An increase in the size of the mine by 10 ~~5~~ percent or 825 ~~750~~ acres, whichever is less. An increase in the size of a heavy mineral mine as defined in s. 378.403(7) will only constitute a substantial deviation if the average annual acreage mined is

more than 550 ~~500~~ acres and consumes more than 3.3 ~~3~~ million gallons of water per day.

5.~~6.~~ An increase in land area for office development by 10 ~~5~~ percent or an increase of gross floor area of office development by 10 ~~5~~ percent or 66,000 ~~60,000~~ gross square feet, whichever is greater.

6. An increase of development at a marina of 10 percent of wet storage or for 30 watercraft slips, whichever is greater, or 20 percent of wet storage or 60 watercraft slips in an area identified by a local government in a boat facility siting plan as an appropriate site for additional marina development, whichever is greater.

~~7. An increase in the storage capacity for chemical or petroleum storage facilities by 5 percent, 20,000 barrels, or 7 million pounds, whichever is greater.~~

~~8. An increase of development at a waterport of wet storage for 20 watercraft, dry storage for 30 watercraft, or wet/dry storage for 60 watercraft in an area identified in the state marina siting plan as an appropriate site for additional waterport development or a 5 percent increase in watercraft storage capacity, whichever is greater.~~

7.~~9.~~ An increase in the number of dwelling units by 10 ~~5~~ percent or 55 ~~50~~ dwelling units, whichever is greater.

8. An increase in the number of dwelling units by 15 percent or 100 units, whichever is greater, provided that 20 percent of the increase in the number of dwelling units is dedicated to the construction of workforce housing. For purposes of this subparagraph, the term "workforce housing" means housing

that is affordable to a person who earns less than 120 percent of the area median income.

9.~~10.~~ An increase in commercial development by 55,000 ~~50,000~~ square feet of gross floor area or of parking spaces provided for customers for 330 ~~300~~ cars or a 10-percent ~~5 percent~~ increase of either of these, whichever is greater.

10.~~11.~~ An increase in hotel or motel rooms ~~facility units~~ by 10 ~~5~~ percent or 83 rooms ~~75 units~~, whichever is greater.

11.~~12.~~ An increase in a recreational vehicle park area by 10 ~~5~~ percent or 110 ~~100~~ vehicle spaces, whichever is less.

12.~~13.~~ A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

13.~~14.~~ A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 110 ~~100~~ percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 110 ~~100~~ percent has been reached or exceeded.

14.~~15.~~ A 15-percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review.

15.~~16.~~ Any change which would result in development of any area which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or

species of special concern and their habitat, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The ~~further~~ refinement of such areas ~~by survey~~ shall be considered under sub-subparagraph (e)2.j. ~~(e)5.b.~~

The substantial deviation numerical standards in subparagraphs 3., 5., 9., 10., and 13. ~~4., 6., 10., 14.~~, excluding residential uses, and in subparagraph 14. ~~15.,~~ are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Office of Tourism, Trade, and Economic Development as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 3., 5., 7., 8., 9., 10., 13., and 14. ~~4., 6., 9., 10., 11., and 14.~~ are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

(c) An extension of the date of buildout of a development, or any phase thereof, by more than 7 ~~or more~~ years shall be presumed to create a substantial deviation subject to further development-of-regional-impact review. An extension of the date of buildout, or any phase thereof, of more than 5 years ~~or more~~ but less than 7 years shall be presumed not to create a substantial deviation. The extension of the date of buildout of an areawide development of regional impact by more than 5 years but less than 10 years is presumed not to create a substantial

deviation. These presumptions may be rebutted by clear and convincing evidence at the public hearing held by the local government. An extension of 5 years or less ~~than 5 years~~ is not a substantial deviation. For the purpose of calculating when a buildout or~~,~~ phase~~, or termination~~ date has been exceeded, the time shall be tolled during the pendency of administrative or judicial proceedings relating to development permits. Any extension of the buildout date of a project or a phase thereof shall automatically extend the commencement date of the project, the termination date of the development order, the expiration date of the development of regional impact, and the phases thereof if applicable by a like period of time.

(d) A change in the plan of development of an approved development of regional impact resulting from requirements imposed by the Department of Environmental Protection or any water management district created by s. 373.069 or any of their successor agencies or by any appropriate federal regulatory agency shall be submitted to the local government pursuant to this subsection. The change shall be presumed not to create a substantial deviation subject to further development-of-regional-impact review. The presumption may be rebutted by clear and convincing evidence at the public hearing held by the local government.

(e)1. Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change to a development order that individually or cumulatively with any previous change is less than any numerical criterion contained in subparagraphs (b)1.-15. and does not exceed any other

criterion, or that involves an extension of the buildout date of a development, or any phase thereof, of less than 5 years is not subject to the public hearing requirements of subparagraph (f)3., and is not subject to a determination pursuant to subparagraph (f)5. Notice of the proposed change shall be made to the regional planning council and the state land planning agency. Such notice shall include a description of previous individual changes made to the development, including changes previously approved by the local government, and shall include appropriate amendments to the development order.

2. The following changes, individually or cumulatively with any previous changes, are not substantial deviations:

a. Changes in the name of the project, developer, owner, or monitoring official.

b. Changes to a setback that do not affect noise buffers, environmental protection or mitigation areas, or archaeological or historical resources.

c. Changes to minimum lot sizes.

d. Changes in the configuration of internal roads that do not affect external access points.

e. Changes to the building design or orientation that stay approximately within the approved area designated for such building and parking lot, and which do not affect historical buildings designated as significant by the Division of Historical Resources of the Department of State.

f. Changes to increase the acreage in the development, provided that no development is proposed on the acreage to be added.

g. Changes to eliminate an approved land use, provided that there are no additional regional impacts.

h. Changes required to conform to permits approved by any federal, state, or regional permitting agency, provided that these changes do not create additional regional impacts.

i. Any renovation or redevelopment of development within a previously approved development of regional impact which does not change land use or increase density or intensity of use.

j. Changes that modify boundaries described in subparagraph (b)15. due to science-based refinement of such areas by survey, by habitat evaluation, by other recognized assessment methodology, or by an environmental assessment.

k.~~j.~~ Any other change which the state land planning agency agrees in writing is similar in nature, impact, or character to the changes enumerated in sub-subparagraphs a.-j. ~~a.-i.~~ and which does not create the likelihood of any additional regional impact.

This subsection does not require a development order amendment for any change listed in sub-subparagraphs a.-k., but shall, prior to implementation of those changes, require 45 days' notice with the appropriate documentation to the state land planning agency, the regional planning agency, and the local government, and publication of a public notice that meets the local government's criteria for a notice of proposed change. If the state land planning agency, the regional planning agency, or the local government objects within 45 days after publication of the public notice, the change shall require a notice of proposed

change and shall be presumed not to be a substantial deviation. In addition, a memorandum of the notification of the changed notice shall be filed with the clerk of the circuit court along with a legal description of the affected development of regional impact. If a subsequent change requiring a notice of proposed change is made to the development of regional impact, modifications to the development of regional impact made in all prior notices must be reflected as amendments to the development order memorandum ~~a. j. unless such issue is addressed either in the existing development order or in the application for development approval, but, in the case of the application, only if, and in the manner in which, the application is incorporated in the development order~~.

3. Except for the change authorized by sub-subparagraph 2.f., any addition of land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.

4. Any submittal of a proposed change to a previously approved development shall include a description of individual changes previously made to the development, including changes previously approved by the local government. The local government shall consider the previous and current proposed changes in deciding whether such changes cumulatively constitute a substantial deviation requiring further development-of-regional-impact review.

5. The following changes to an approved development of regional impact shall be presumed to create a substantial

deviation. Such presumption may be rebutted by clear and convincing evidence.

a. A change proposed for 15 percent or more of the acreage to a land use not previously approved in the development order. Changes of less than 15 percent shall be presumed not to create a substantial deviation.

~~b. Except for the types of uses listed in subparagraph (b)16., any change which would result in the development of any area which was specifically set aside in the application for development approval or in the development order for preservation, buffers, or special protection, including habitat for plant and animal species, archaeological and historical sites, dunes, and other special areas.~~

b.~~c.~~ Notwithstanding any provision of paragraph (b) to the contrary, a proposed change consisting of simultaneous increases and decreases of at least two of the uses within an authorized multiuse development of regional impact which was originally approved with three or more uses specified in s. 380.0651(3)(c), (d), (f), and (g) and residential use.

(f)1. The state land planning agency shall establish by rule standard forms for submittal of proposed changes to a previously approved development of regional impact which may require further development-of-regional-impact review. At a minimum, the standard form shall require the developer to provide the precise language that the developer proposes to delete or add as an amendment to the development order.

2. The developer shall submit, simultaneously, to the local government, the regional planning agency, and the state

land planning agency the request for approval of a proposed change.

3. No sooner than 30 days but no later than 45 days after submittal by the developer to the local government, the state land planning agency, and the appropriate regional planning agency, the local government shall give 15 days' notice and schedule a public hearing to consider the change that the developer asserts does not create a substantial deviation. This public hearing shall be held within 60 ~~90~~ days after submittal of the proposed changes, unless that time is extended by the developer.

4. The appropriate regional planning agency or the state land planning agency shall review the proposed change and, no later than 45 days after submittal by the developer of the proposed change, unless that time is extended by the developer, and prior to the public hearing at which the proposed change is to be considered, shall advise the local government in writing whether it objects to the proposed change, shall specify the reasons for its objection, if any, and shall provide a copy to the developer.

5. At the public hearing, the local government shall determine whether the proposed change requires further development-of-regional-impact review. The provisions of paragraphs (a) and (e), the thresholds set forth in paragraph (b), and the presumptions set forth in paragraphs (c) and (d) and subparagraph (e)3. shall be applicable in determining whether further development-of-regional-impact review is required.

6. If the local government determines that the proposed change does not require further development-of-regional-impact review and is otherwise approved, or if the proposed change is not subject to a hearing and determination pursuant to subparagraphs 3. and 5. and is otherwise approved, the local government shall issue an amendment to the development order incorporating the approved change and conditions of approval relating to the change. The decision of the local government to approve, with or without conditions, or to deny the proposed change that the developer asserts does not require further review shall be subject to the appeal provisions of s. 380.07. However, the state land planning agency may not appeal the local government decision if it did not comply with subparagraph 4. The state land planning agency may not appeal a change to a development order made pursuant to subparagraph (e)1. or subparagraph (e)2. for developments of regional impact approved after January 1, 1980, unless the change would result in a significant impact to a regionally significant archaeological, historical, or natural resource not previously identified in the original development-of-regional-impact review.

(g) If a proposed change requires further development-of-regional-impact review pursuant to this section, the review shall be conducted subject to the following additional conditions:

1. The development-of-regional-impact review conducted by the appropriate regional planning agency shall address only those issues raised by the proposed change except as provided in subparagraph 2.

2. The regional planning agency shall consider, and the local government shall determine whether to approve, approve with conditions, or deny the proposed change as it relates to the entire development. If the local government determines that the proposed change, as it relates to the entire development, is unacceptable, the local government shall deny the change.

3. If the local government determines that the proposed change~~, as it relates to the entire development,~~ should be approved, any new conditions in the amendment to the development order issued by the local government shall address only those issues raised by the proposed change and require mitigation only for the individual and cumulative impacts of the proposed change.

4. Development within the previously approved development of regional impact may continue, as approved, during the development-of-regional-impact review in those portions of the development which are not directly affected by the proposed change.

(h) When further development-of-regional-impact review is required because a substantial deviation has been determined or admitted by the developer, the amendment to the development order issued by the local government shall be consistent with the requirements of subsection (15) and shall be subject to the hearing and appeal provisions of s. 380.07. The state land planning agency or the appropriate regional planning agency need not participate at the local hearing in order to appeal a local government development order issued pursuant to this paragraph.

(24) STATUTORY EXEMPTIONS.--

(a) Any proposed hospital ~~which has a designed capacity of not more than 100 beds~~ is exempt from the provisions of this section.

(b) Any proposed electrical transmission line or electrical power plant is exempt from the provisions of this section~~, except any steam or solar electrical generating facility of less than 50 megawatts in capacity attached to a development of regional impact~~.

(c) Any proposed addition to an existing sports facility complex is exempt from the provisions of this section if the addition meets the following characteristics:

1. It would not operate concurrently with the scheduled hours of operation of the existing facility.

2. Its seating capacity would be no more than 75 percent of the capacity of the existing facility.

3. The sports facility complex property is owned by a public body prior to July 1, 1983.

This exemption does not apply to any pari-mutuel facility.

(d) Any proposed addition or cumulative additions subsequent to July 1, 1988, to an existing sports facility complex owned by a state university is exempt if the increased seating capacity of the complex is no more than 30 percent of the capacity of the existing facility.

(e) Any addition of permanent seats or parking spaces for an existing sports facility located on property owned by a public body prior to July 1, 1973, is exempt from the provisions of this section if future additions do not expand existing

permanent seating or parking capacity more than 15 percent annually in excess of the prior year's capacity.

(f) Any increase in the seating capacity of an existing sports facility having a permanent seating capacity of at least 50,000 spectators is exempt from the provisions of this section, provided that such an increase does not increase permanent seating capacity by more than 5 percent per year and not to exceed a total of 10 percent in any 5-year period, and provided that the sports facility notifies the appropriate local government within which the facility is located of the increase at least 6 months prior to the initial use of the increased seating, in order to permit the appropriate local government to develop a traffic management plan for the traffic generated by the increase. Any traffic management plan shall be consistent with the local comprehensive plan, the regional policy plan, and the state comprehensive plan.

(g) Any expansion in the permanent seating capacity or additional improved parking facilities of an existing sports facility is exempt from the provisions of this section, if the following conditions exist:

1.a. The sports facility had a permanent seating capacity on January 1, 1991, of at least 41,000 spectator seats;

b. The sum of such expansions in permanent seating capacity does not exceed a total of 10 percent in any 5-year period and does not exceed a cumulative total of 20 percent for any such expansions; or

c. The increase in additional improved parking facilities is a one-time addition and does not exceed 3,500 parking spaces serving the sports facility; and

2. The local government having jurisdiction of the sports facility includes in the development order or development permit approving such expansion under this paragraph a finding of fact that the proposed expansion is consistent with the transportation, water, sewer and stormwater drainage provisions of the approved local comprehensive plan and local land development regulations relating to those provisions.

Any owner or developer who intends to rely on this statutory exemption shall provide to the department a copy of the local government application for a development permit. Within 45 days of receipt of the application, the department shall render to the local government an advisory and nonbinding opinion, in writing, stating whether, in the department's opinion, the prescribed conditions exist for an exemption under this paragraph. The local government shall render the development order approving each such expansion to the department. The owner, developer, or department may appeal the local government development order pursuant to s. 380.07, within 45 days after the order is rendered. The scope of review shall be limited to the determination of whether the conditions prescribed in this paragraph exist. If any sports facility expansion undergoes development of regional impact review, all previous expansions which were exempt under this paragraph shall be included in the development of regional impact review.

(h) Expansion to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related inwater harbor facilities of ports listed in s. 403.021(9)(b), port transportation facilities and projects listed in s. 311.07(3)(b), and intermodal transportation facilities identified pursuant to s. 311.09(3) are exempt from the provisions of this section when such expansions, projects, or facilities are consistent with comprehensive master plans that are in compliance with the provisions of s. 163.3178.

(i) Any proposed facility for the storage of any petroleum product or any expansion of an existing facility is exempt from the provisions of this section, if the facility is consistent with a local comprehensive plan that is in compliance with s. 163.3177 or is consistent with a comprehensive port master plan that is in compliance with s. 163.3178.

(j) Any renovation or redevelopment within the same land parcel which does not change land use or increase density or intensity of use.

(k)1. Any waterport or marina development is exempt from the provisions of this section if the relevant county or municipality has adopted a boating facility siting plan or policy, which includes applicable criteria, considering such factors as natural resources, manatee protection needs, and recreation and economic demands ~~as generally outlined in the Bureau of Protected Species Management Boat Facility Siting Guide, dated August 2000~~, into the coastal management or land use element of its comprehensive plan. The adoption of boating facility siting plans or policies into the comprehensive plan is

exempt from the provisions of s. 163.3187(1). Any waterport or marina development within the municipalities or counties with boating facility siting plans or policies that meet the above criteria~~, adopted prior to April 1, 2002,~~ are exempt from the provisions of this section, when their boating facility siting plan or policy is adopted as part of the relevant local government's comprehensive plan.

2. ~~Within 6 months of the effective date of this law,~~ The Department of Community Affairs, in conjunction with the Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission, shall provide technical assistance and guidelines, including model plans, policies and criteria to local governments for the development of their siting plans.

(l) Any proposed development within an urban service boundary established under s. 163.3177(14) is exempt from the provisions of this section if the local government having jurisdiction over the area where the development is proposed has adopted the urban service boundary, ~~and~~ has entered into a binding agreement with ~~adjacent~~ jurisdictions that would be impacted and with the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

(m) Any proposed development within a rural land stewardship area created under s. 163.3177(11)(d) is exempt from the provisions of this section if the local government that has adopted the rural land stewardship area has entered into a

binding agreement with jurisdictions that would be impacted and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

(n) Any proposed development or redevelopment within an area designated as an urban infill and redevelopment area under s. 163.2517 is exempt from ~~the provisions of~~ this section if the local government has entered into a binding agreement with jurisdictions that would be impacted and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

(o) The establishment, relocation, or expansion of any military installation as defined in s. 163.3175, is exempt from this section.

(p) Any self-storage warehousing that does not allow retail or other services is exempt from this section.

(q) Any proposed nursing home or assisted living facility is exempt from this section.

(r) Any development identified in an airport master plan and adopted into the comprehensive plan pursuant to s. 163.3177(6)(k) is exempt from this section.

(s) Any development identified in a campus master plan and adopted pursuant to s. 1013.30 is exempt from this section.

(t) Any development in a specific area plan which is prepared pursuant to s. 163.3245 and adopted into the comprehensive plan is exempt from this section.

If a use is exempt from review as a development of regional impact under paragraphs (a)-(t) but will be part of a larger project that is subject to review as a development of regional impact, the impact of the exempt use must be included in the review of the larger project.

(28) PARTIAL STATUTORY EXEMPTIONS.--

(a) If the binding agreement referenced under paragraph (24)(l) for urban service boundaries is not entered into within 12 months after establishment of the urban service boundary, the development-of-regional-impact review for projects within the urban service boundary must address transportation impacts only.

(b) If the binding agreement referenced under paragraph (24)(n) for designated urban infill and redevelopment areas is not entered into within 12 months after the designation of the area or July 1, 2007, whichever occurs later, the development-of-regional-impact review for projects within the urban infill and redevelopment area must address transportation impacts only.

(c) A local government that does not wish to enter into a binding agreement or that is unable to agree on the terms of the agreement referenced under paragraph (24)(l) or paragraph (24)(n) shall provide written notification to the state land planning agency of the failure to enter into a binding agreement within the 12-month period referenced in paragraphs (a) and (b). Following the notification of the state land planning agency, the development-of-regional-impact review for projects within the urban service boundary under paragraph (24)(l) or for an

urban infill and redevelopment area under paragraph (24)(n) must address transportation impacts only.

Section 2. Paragraphs (d) and (e) of subsection (3) of section 380.0651, Florida Statutes, are amended, paragraph (k) of subsection (3) is redesignated as paragraph (l), and a new paragraph (k) is added to that subsection, to read:

380.0651 Statewide guidelines and standards.--

(3) The following statewide guidelines and standards shall be applied in the manner described in s. 380.06(2) to determine whether the following developments shall be required to undergo development-of-regional-impact review:

(d) Office development.--Any proposed office building or park operated under common ownership, development plan, or management that:

1. Encompasses 300,000 or more square feet of gross floor area; or

2. Encompasses more than 600,000 square feet of gross floor area in a county with a population greater than 500,000 and only in a geographic area specifically designated as highly suitable for increased threshold intensity in the approved local comprehensive plan ~~and in the strategic regional policy plan~~.

(e) Marinas and port facilities.--The proposed construction of any waterport or marina is required to undergo development-of-regional-impact review if it is~~, except one~~ designed for:

1.a. The wet storage or mooring of more ~~fewer~~ than 150 watercraft used ~~exclusively~~ for sport, pleasure, or commercial fishing~~;~~ or

~~b. The dry storage of fewer than 200 watercraft used exclusively for sport, pleasure, or commercial fishing, or~~

b.~~c.~~ The wet ~~or dry~~ storage or mooring of more ~~fewer~~ than 150 watercraft on or adjacent to an inland freshwater lake except Lake Okeechobee or any lake that ~~which~~ has been designated an Outstanding Florida Water.~~, or~~

~~d. The wet or dry storage or mooring of fewer than 50 watercraft of 40 feet in length or less of any type or purpose.~~

The numeric thresholds contained in this subparagraph shall be doubled for proposed marina developers who enter into a binding commitment with the local government to set aside at least 15 percent of the wet storage or moorings for public use or rental.

2. The subthreshold exceptions to this paragraph's requirements for development-of-regional-impact review do ~~shall~~ not apply to any waterport or marina facility located within or which serves physical development located within a coastal barrier resource unit on an unbridged barrier island designated pursuant to 16 U.S.C. s. 3501.

In addition to the foregoing, for projects for which no environmental resource permit or sovereign submerged land lease is required, the Department of Environmental Protection must determine in writing that a proposed marina in excess of 75 ~~10~~ slips or storage spaces or a combination of the two is located so that it will not adversely impact Outstanding Florida Waters or Class II waters and will not contribute boat traffic in a manner that will have an adverse impact on an area known to be,

or likely to be, frequented by manatees. If the Department of Environmental Protection fails to issue its determination within 45 days after ~~of~~ receipt of a formal written request, it has waived its authority to make such determination. The Department of Environmental Protection determination shall constitute final agency action pursuant to chapter 120.

~~2. The dry storage of fewer than 300 watercraft used exclusively for sport, pleasure, or commercial fishing at a marina constructed and in operation prior to July 1, 1985.~~

~~3. Any proposed marina development with both wet and dry mooring or storage used exclusively for sport, pleasure, or commercial fishing, where the sum of percentages of the applicable wet and dry mooring or storage thresholds equals 100 percent. This threshold is in addition to, and does not preclude, a development from being required to undergo development of regional impact review under sub-subparagraphs 1.a. and b. and subparagraph 2.~~

(k) Workforce housing.--The applicable guidelines for residential development and the residential component for multiuse development shall be increased by 20 percent where the developer demonstrates that at least 15 percent of the residential dwelling units will be dedicated to workforce housing. For purposes of this subparagraph, the term "workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income.

(l) ~~(k)~~ Schools.--

1. The proposed construction of any public, private, or proprietary postsecondary educational campus which provides for

a design population of more than 5,000 full-time equivalent students, or the proposed physical expansion of any public, private, or proprietary postsecondary educational campus having such a design population that would increase the population by at least 20 percent of the design population.

2. As used in this paragraph, "full-time equivalent student" means enrollment for 15 or more quarter hours during a single academic semester. In career centers or other institutions which do not employ semester hours or quarter hours in accounting for student participation, enrollment for 18 contact hours shall be considered equivalent to one quarter hour, and enrollment for 27 contact hours shall be considered equivalent to one semester hour.

3. This paragraph does not apply to institutions which are the subject of a campus master plan adopted by the university board of trustees pursuant to s. 1013.30.

Section 3. Section 380.07, Florida Statutes, is amended to read:

380.07 Florida Land and Water Adjudicatory Commission.--

(1) There is hereby created the Florida Land and Water Adjudicatory Commission, which shall consist of the Administration Commission. The commission may adopt rules necessary to ensure compliance with the area of critical state concern program and the requirements for developments of regional impact as set forth in this chapter.

(2) Whenever any local government issues any development order in any area of critical state concern, or in regard to any development of regional impact, copies of such orders as

prescribed by rule by the state land planning agency shall be transmitted to the state land planning agency, the regional planning agency, and the owner or developer of the property affected by such order. The state land planning agency shall adopt rules describing development order rendition and effectiveness in designated areas of critical state concern. Within 45 days after the order is rendered, the owner, the developer, or the state land planning agency may appeal the order to the Florida Land and Water Adjudicatory Commission by filing a petition alleging that the development order is not consistent with the provisions of this part ~~notice of appeal with the commission~~. The appropriate regional planning agency by vote at a regularly scheduled meeting may recommend that the state land planning agency undertake an appeal of a development-of-regional-impact development order. Upon the request of an appropriate regional planning council, affected local government, or any citizen, the state land planning agency shall consider whether to appeal the order and shall respond to the request within the 45-day appeal period. ~~Any appeal taken by a regional planning agency between March 1, 1993, and the effective date of this section may only be continued if the state land planning agency has also filed an appeal. Any appeal initiated by a regional planning agency on or before March 1, 1993, shall continue until completion of the appeal process and any subsequent appellate review, as if the regional planning agency were authorized to initiate the appeal.~~

(3) Notwithstanding any other provision of law, an appeal of a development order by the state land planning agency under

this section may include consistency of the development order with the local comprehensive plan. However, if a development order relating to a development of regional impact has been challenged in a proceeding under s. 163.3215 and a party to the proceeding serves notice to the state land planning agency of the pending proceeding under s. 163.3215, the state land planning agency shall:

(a) Raise its consistency issues by intervening as a full party in the pending proceeding under s. 163.3215 within 30 days after service of the notice; and

(b) Dismiss the consistency issues from the development order appeal.

(4) The appellant shall furnish a copy of the petition to the opposing party, as the case may be, and to the local government that issued the order. The filing of the petition stays the effectiveness of the order until after the completion of the appeal process.

(5) ~~(3)~~ The 45-day appeal period for a development of regional impact within the jurisdiction of more than one local government shall not commence until after all the local governments having jurisdiction over the proposed development of regional impact have rendered their development orders. The appellant shall furnish a copy of the notice of appeal to the opposing party, as the case may be, and to the local government which issued the order. The filing of the notice of appeal shall stay the effectiveness of the order until after the completion of the appeal process.

(6) ~~(4)~~ Prior to issuing an order, the Florida Land and Water Adjudicatory Commission shall hold a hearing pursuant to the provisions of chapter 120. The commission shall encourage the submission of appeals on the record made below in cases in which the development order was issued after a full and complete hearing before the local government or an agency thereof.

(7) ~~(5)~~ The Florida Land and Water Adjudicatory Commission shall issue a decision granting or denying permission to develop pursuant to the standards of this chapter and may attach conditions and restrictions to its decisions.

~~(6) If an appeal is filed with respect to any issues within the scope of a permitting program authorized by chapter 161, chapter 373, or chapter 403 and for which a permit or conceptual review approval has been obtained prior to the issuance of a development order, any such issue shall be specifically identified in the notice of appeal which is filed pursuant to this section, together with other issues which constitute grounds for the appeal. The appeal may proceed with respect to issues within the scope of permitting programs for which a permit or conceptual review approval has been obtained prior to the issuance of a development order only after the commission determines by majority vote at a regularly scheduled commission meeting that statewide or regional interests may be adversely affected by the development. In making this determination, there shall be a rebuttable presumption that statewide and regional interests relating to issues within the scope of the permitting programs for which a permit or~~

~~conceptual approval has been obtained are not adversely affected.~~

Section 4. Section 380.115, Florida Statutes, is amended to read:

380.115 Vested rights and duties; effect of size reduction, changes in guidelines and standards ~~chs. 2002-20 and 2002-296~~.--

(1) A change in a development-of-regional-impact guideline and standard does not abridge ~~Nothing contained in this act abridges~~ or modify ~~modifies~~ any vested or other right or any duty or obligation pursuant to any development order or agreement that is applicable to a development of regional impact ~~on the effective date of this act~~. A development that has received a development-of-regional-impact development order pursuant to s. 380.06, but is no longer required to undergo development-of-regional-impact review by operation of a change in the guidelines and standards or has reduced its size below the thresholds in s. 380.0651 ~~of this act~~, shall be governed by the following procedures:

(a) The development shall continue to be governed by the development-of-regional-impact development order and may be completed in reliance upon and pursuant to the development order unless the developer or landowner has followed the procedures for rescission in paragraph (b). The development-of-regional-impact development order may be enforced by the local government as provided by ss. 380.06(17) and 380.11.

(b) If requested by the developer or landowner, the development-of-regional-impact development order shall ~~may~~ be

rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed ~~abandoned pursuant to the process in s. 380.06(26)~~.

(2) A development with an application for development approval pending, ~~and determined sufficient~~ pursuant to s. 380.06 ~~s. 380.06(10)~~, on the effective date of a change to the guidelines and standards ~~this act~~, or a notification of proposed change pending on the effective date of a change to the guidelines and standards ~~this act~~, may elect to continue such review pursuant to s. 380.06. At the conclusion of the pending review, including any appeals pursuant to s. 380.07, the resulting development order shall be governed by the provisions of subsection (1).

(3) A landowner that has filed an application for a development-of-regional-impact review prior to the adoption of an optional sector plan pursuant to s. 163.3245 may elect to have the application reviewed pursuant to s. 380.06, comprehensive plan provisions in force prior to adoption of the sector plan, and any requested comprehensive plan amendments that accompany the application.

Section 5. Section 342.07, Florida Statutes, is amended to read:

342.07 Recreational and commercial working waterfronts; legislative findings; definitions.--

(1) The Legislature recognizes that there is an important state interest in facilitating boating and other recreational access to the state's navigable waters. This access is vital to

tourists and recreational users and the marine industry in the state, to maintaining or enhancing the $57 billion economic impact of tourism and the $14 billion economic impact of boating in the state annually, and to ensuring continued access to all residents and visitors to the navigable waters of the state. The Legislature recognizes that there is an important state interest in maintaining viable water-dependent support facilities, such as public lodging establishments and boat hauling and repairing and commercial fishing facilities, and in maintaining the availability of public access to the navigable waters of the state. The Legislature further recognizes that the waterways of the state are important for engaging in commerce and the transportation of goods and people upon such waterways and that such commerce and transportation is not feasible unless there is access to and from the navigable waters of the state through recreational and commercial working waterfronts.

(2) As used in this section, the term "recreational and commercial working waterfront" means a parcel or parcels of real property that provide access for water-dependent commercial and recreational activities, including public lodging establishments as defined in chapter 509, or provide access for the public to the navigable waters of the state. Recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the state or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include

docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water. As used in this section, the term "vessel" has the same meaning as in s. 327.02(37). Seaports are excluded from the definition.

Section 6. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HM 683**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Growth Management Committee

Representative(s) Rep. Traviesa offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Paragraphs (a) and (i) of subsection (4) and subsections (15), (19), and (24) of section 380.06, Florida Statutes, are amended, and subsection (28) is added to that section, to read:

380.06 Developments of regional impact.--

(4) BINDING LETTER.--

(a) If any developer is in doubt whether his or her proposed development must undergo development-of-regional-impact review under the guidelines and standards, whether his or her rights have vested pursuant to subsection (20), or whether a proposed substantial change to a development of regional impact concerning which rights had previously vested pursuant to subsection (20) would divest such rights, the developer may request a determination from the state land planning agency. The developer or the appropriate local government having jurisdiction may request that the state land planning agency

determine whether the amount of development that remains to be built in an approved development of regional impact meets the criteria of subparagraph (15)(g)3.

(i) In response to an inquiry from a developer or the appropriate local government having jurisdiction, the state land planning agency may issue an informal determination in the form of a clearance letter as to whether a development is required to undergo development-of-regional-impact review, or whether the amount of development that remains to be built in an approved development of regional impact meets the criteria of subparagraph (15)(g)3. A clearance letter may be based solely on the information provided by the developer, and the state land planning agency is not required to conduct an investigation of that information. If any material information provided by the developer is incomplete or inaccurate, the clearance letter is not binding upon the state land planning agency. A clearance letter does not constitute final agency action.

(15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

(a) The appropriate local government shall render a decision on the application within 30 days after the hearing unless an extension is requested by the developer.

(b) When possible, local governments shall issue development orders concurrently with any other local permits or development approvals that may be applicable to the proposed development.

(c) The development order shall include findings of fact and conclusions of law consistent with subsections (13) and (14). The development order:

1. Shall specify the monitoring procedures and the local official responsible for assuring compliance by the developer with the development order.

2. Shall establish compliance dates for the development order, including a deadline for commencing physical development and for compliance with conditions of approval or phasing requirements, and shall include a buildout ~~termination~~ date that reasonably reflects the time anticipated ~~required~~ to complete the development.

3. Shall establish a date until which the local government agrees that the approved development of regional impact shall not be subject to downzoning, unit density reduction, or intensity reduction, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of the development order have occurred or the development order was based on substantially inaccurate information provided by the developer or that the change is clearly established by local government to be essential to the public health, safety, or welfare. The date established pursuant to this subparagraph shall be no sooner than the buildout date of the project.

4. Shall specify the requirements for the biennial report designated under subsection (18), including the date of submission, parties to whom the report is submitted, and contents of the report, based upon the rules adopted by the state land planning agency. Such rules shall specify the scope of any additional local requirements that may be necessary for the report.

5. May specify the types of changes to the development which shall require submission for a substantial deviation determination or a notice of proposed change under subsection (19).

6. Shall include a legal description of the property.

(d) Conditions of a development order that require a developer to contribute land for a public facility or construct, expand, or pay for land acquisition or construction or expansion of a public facility, or portion thereof, shall meet the following criteria:

1. The need to construct new facilities or add to the present system of public facilities must be reasonably attributable to the proposed development.

2. Any contribution of funds, land, or public facilities required from the developer shall be comparable to the amount of funds, land, or public facilities that the state or the local government would reasonably expect to expend or provide, based on projected costs of comparable projects, to mitigate the impacts reasonably attributable to the proposed development.

3. Any funds or lands contributed must be expressly designated and used to mitigate impacts reasonably attributable to the proposed development.

4. Construction or expansion of a public facility by a nongovernmental developer as a condition of a development order to mitigate the impacts reasonably attributable to the proposed development is not subject to competitive bidding or competitive negotiation for selection of a contractor or design professional for any part of the construction or design ~~unless required by the local government that issues the development order~~.

(e)1. ~~Effective July 1, 1986,~~ A local government shall not include, as a development order condition for a development of regional impact, any requirement that a developer contribute or pay for land acquisition or construction or expansion of public facilities or portions thereof unless the local government has enacted a local ordinance which requires other development not subject to this section to contribute its proportionate share of

the funds, land, or public facilities necessary to accommodate any impacts having a rational nexus to the proposed development, and the need to construct new facilities or add to the present system of public facilities must be reasonably attributable to the proposed development.

2. A local government shall not approve a development of regional impact that does not make adequate provision for the public facilities needed to accommodate the impacts of the proposed development unless the local government includes in the development order a commitment by the local government to provide these facilities consistently with the development schedule approved in the development order; however, a local government's failure to meet the requirements of subparagraph 1. and this subparagraph shall not preclude the issuance of a development order where adequate provision is made by the developer for the public facilities needed to accommodate the impacts of the proposed development. Any funds or lands contributed by a developer must be expressly designated and used to accommodate impacts reasonably attributable to the proposed development.

3. The Department of Community Affairs and other state and regional agencies involved in the administration and implementation of this act shall cooperate and work with units of local government in preparing and adopting local impact fee and other contribution ordinances.

(f) Notice of the adoption of a development order or the subsequent amendments to an adopted development order shall be recorded by the developer, in accordance with s. 28.222, with the clerk of the circuit court for each county in which the development is located. The notice shall include a legal description of the property covered by the order and shall state

which unit of local government adopted the development order, the date of adoption, the date of adoption of any amendments to the development order, the location where the adopted order with any amendments may be examined, and that the development order constitutes a land development regulation applicable to the property. The recording of this notice shall not constitute a lien, cloud, or encumbrance on real property, or actual or constructive notice of any such lien, cloud, or encumbrance. This paragraph applies only to developments initially approved under this section after July 1, 1980.

(g) A local government shall not issue permits for development subsequent to the buildout ~~termination date or expiration~~ date contained in the development order unless:

1. The proposed development has been evaluated cumulatively with existing development under the substantial deviation provisions of subsection (19) subsequent to the termination or expiration date;

2. The proposed development is consistent with an abandonment of development order that has been issued in accordance with the provisions of subsection (26); ~~or~~

3. The development of regional impact is essentially built out, in that all the mitigation requirements in the development order have been satisfied, all developers are in compliance with all applicable terms and conditions of the development order except the buildout date, and the amount of proposed development that remains to be built is less than 20 percent of any applicable development-of-regional-impact threshold; or

4.~~3.~~ The project has been determined to be an essentially built-out development of regional impact through an agreement executed by the developer, the state land planning agency, and the local government, in accordance with s. 380.032, which will

establish the terms and conditions under which the development may be continued. If the project is determined to be essentially built out ~~built-out~~, development may proceed pursuant to the s. 380.032 agreement after the termination or expiration date contained in the development order without further development-of-regional-impact review subject to the local government comprehensive plan and land development regulations or subject to a modified development-of-regional-impact analysis. As used in this paragraph, an "essentially built-out" development of regional impact means:

a. The developers are ~~development is~~ in compliance with all applicable terms and conditions of the development order except the buildout ~~built-out~~ date; and

b.(I) The amount of development that remains to be built is less than the substantial deviation threshold specified in paragraph (19)(b) for each individual land use category, or, for a multiuse development, the sum total of all unbuilt land uses as a percentage of the applicable substantial deviation threshold is equal to or less than 100 percent; or

(II) The state land planning agency and the local government have agreed in writing that the amount of development to be built does not create the likelihood of any additional regional impact not previously reviewed.

5. In addition to the requirements of subparagraphs 3. and 4.

a. The single-family residential portions of a development may be considered "essentially built out" if all of the infrastructure and horizontal development has been completed, at least 50 percent of the dwelling units have been completed, and more than 80 percent of the lots have been

conveyed to third-party individual lot owners or to individual builders who own no more than 40 lots at the time of the determination; and

b. The mobile home park portions of a development may be considered "essentially built out" if all the infrastructure and horizontal development has been completed, and at least 50 percent of the lots are leased to individual mobile home owners.

(h) If the property is annexed by another local jurisdiction, the annexing jurisdiction shall adopt a new development order that incorporates all previous rights and obligations specified in the prior development order.

(19) SUBSTANTIAL DEVIATIONS.--

(a) Any proposed change to a previously approved development which creates a reasonable likelihood of additional regional impact, or any type of regional impact created by the change not previously reviewed by the regional planning agency, shall constitute a substantial deviation and shall cause the proposed change ~~development~~ to be subject to further development-of-regional-impact review. There are a variety of reasons why a developer may wish to propose changes to an approved development of regional impact, including changed market conditions. The procedures set forth in this subsection are for that purpose.

(b) Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the following criteria shall constitute a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review without the necessity for a finding of same by the local government:

1. An increase in the number of parking spaces at an attraction or recreational facility by 10 ~~5~~ percent or 330 ~~300~~ spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 10 ~~5~~ percent or 1,100 ~~1,000~~ spectators, whichever is greater.

2. A new runway, a new terminal facility, a 25-percent lengthening of an existing runway, or a 25-percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates.

~~3. An increase in the number of hospital beds by 5 percent or 60 beds, whichever is greater.~~

3.~~4.~~ An increase in industrial development area by 10 ~~5~~ percent or 35 ~~32~~ acres, whichever is greater.

4.~~5.~~ An increase in the average annual acreage mined by 10 ~~5~~ percent or 11 ~~10~~ acres, whichever is greater, or an increase in the average daily water consumption by a mining operation by 10 ~~5~~ percent or 330,000 ~~300,000~~ gallons, whichever is greater. An increase in the size of the mine by 10 ~~5~~ percent or 825 ~~750~~ acres, whichever is less. An increase in the size of a heavy mineral mine as defined in s. 378.403(7) will only constitute a substantial deviation if the average annual acreage mined is more than 550 ~~500~~ acres and consumes more than 3.3 ~~3~~ million gallons of water per day.

5.~~6.~~ An increase in land area for office development by 10 ~~5~~ percent or an increase of gross floor area of office development by 10 ~~5~~ percent or 66,000 ~~60,000~~ gross square feet, whichever is greater.

~~7. An increase in the storage capacity for chemical or petroleum storage facilities by 5 percent, 20,000 barrels, or 7 million pounds, whichever is greater.~~

~~8. An increase of development at a waterport of wet storage for 20 watercraft, dry storage for 30 watercraft, or wet/dry storage for 60 watercraft in an area identified in the state marina siting plan as an appropriate site for additional waterport development or a 5-percent increase in watercraft storage capacity, whichever is greater.~~

7.~~9.~~ An increase in the number of dwelling units by 10 ~~5~~ percent or 55 ~~50~~ dwelling units, whichever is greater.

8. An increase in the number of dwelling units by 15 percent or 100 units, whichever is greater, provided that 20 percent of the increase in the number of dwelling units is dedicated to the construction of workforce housing. For purposes of this subparagraph, the term "workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income.

9.~~10.~~ An increase in commercial development by 55,000 ~~50,000~~ square feet of gross floor area or of parking spaces provided for customers for 330 ~~300~~ cars or a 10-percent ~~5-percent~~ increase of either of these, whichever is greater.

10.~~11.~~ An increase in hotel or motel rooms ~~facility units~~ by 10 ~~5~~ percent or 83 rooms ~~75 units~~, whichever is greater.

11.~~12.~~ An increase in a recreational vehicle park area by 10 ~~5~~ percent or 110 ~~100~~ vehicle spaces, whichever is less.

12.~~13.~~ A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

13.~~14.~~ A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 110 ~~100~~ percent. The percentage of any decrease in the amount of open space shall be

treated as an increase for purposes of determining when 110 ~~100~~ percent has been reached or exceeded.

14.~~15.~~ A 15-percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review.

15.~~16.~~ Any change which would result in development of any area which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, any species protected by 16 U.S.C. §668a-668d, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The ~~further~~ refinement of the boundaries and configuration of such areas ~~by survey~~ shall be considered under sub-subparagraph (e)2.j. ~~(e)5.b.~~

The substantial deviation numerical standards in subparagraphs 3., 5., 9., 10., and 13. ~~4., 6., 10., 14.~~, excluding residential uses, and in subparagraph 14. ~~15.,~~ are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Office of Tourism, Trade, and Economic Development as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 3., 5., 7., 8., 9., 10., 13., and 14. ~~4., 6., 9., 10., 11., and 14.~~ are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the

applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

(c) An extension of the date of buildout of a development, or any phase thereof, by more than 7 ~~or more~~ years shall be presumed to create a substantial deviation subject to further development-of-regional-impact review. An extension of the date of buildout, or any phase thereof, of more than 5 years ~~or more~~ but less than 7 years shall be presumed not to create a substantial deviation. The extension of the date of buildout of an areawide development of regional impact by more than 5 years but less than 10 years is presumed not to create a substantial deviation. These presumptions may be rebutted by clear and convincing evidence at the public hearing held by the local government. An extension of 5 years or less ~~than 5 years~~ is not a substantial deviation. For the purpose of calculating when a buildout or~~,~~ phase~~, or termination~~ date has been exceeded, the time shall be tolled during the pendency of administrative or judicial proceedings relating to development permits. Any extension of the buildout date of a project or a phase thereof shall automatically extend the commencement date of the project, the termination date of the development order, the expiration date of the development of regional impact, and the phases thereof if applicable by a like period of time.

(d) A change in the plan of development of an approved development of regional impact resulting from requirements imposed by the Department of Environmental Protection or any water management district created by s. 373.069 or any of their successor agencies or by any appropriate federal regulatory agency shall be submitted to the local government pursuant to this subsection. The change shall be presumed not to create a substantial deviation subject to further development-of-

regional-impact review. The presumption may be rebutted by clear and convincing evidence at the public hearing held by the local government.

(e)1. Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change to a development order that individually or cumulatively with any previous change is less than any numerical criterion contained in subparagraphs (b)1.-15. and does not exceed any other criterion, or that involves an extension of the buildout date of a development, or any phase thereof, of less than 5 years is not subject to the public hearing requirements of subparagraph (f)3., and is not subject to a determination pursuant to subparagraph (f)5. Notice of the proposed change shall be made to the regional planning council and the state land planning agency. Such notice shall include a description of previous individual changes made to the development, including changes previously approved by the local government, and shall include appropriate amendments to the development order.

2. The following changes, individually or cumulatively with any previous changes, are not substantial deviations:

a. Changes in the name of the project, developer, owner, or monitoring official.

b. Changes to a setback that do not affect noise buffers, environmental protection or mitigation areas, or archaeological or historical resources.

c. Changes to minimum lot sizes.

d. Changes in the configuration of internal roads that do not affect external access points.

e. Changes to the building design or orientation that stay approximately within the approved area designated for such building and parking lot, and which do not affect historical

buildings designated as significant by the Division of Historical Resources of the Department of State.

f. Changes to increase the acreage in the development, provided that no development is proposed on the acreage to be added.

g. Changes to eliminate an approved land use, provided that there are no additional regional impacts.

h. Changes required to conform to permits approved by any federal, state, or regional permitting agency, provided that these changes do not create additional regional impacts.

i. Any renovation or redevelopment of development within a previously approved development of regional impact which does not change land use or increase density or intensity of use.

j. Changes that modify boundaries and configuration of areas described in subparagraph (b)15. due to science-based refinement of such areas by survey, by habitat evaluation, or by other recognized assessment methodology, or by an environmental assessment. In order for changes to qualify under this subparagraph, the survey, habitat evaluation, or assessment must occur prior to the time a conservation easement protecting such lands is recorded and must not result in any net decrease in the total acreage of the lands specifically set aside for permanent preservation in the final development order.

k.~~j.~~ Any other change which the state land planning agency agrees in writing is similar in nature, impact, or character to the changes enumerated in sub-subparagraphs a.-j. ~~a.-i.~~ and which does not create the likelihood of any additional regional impact.

This subsection does not require the filing of a notice of proposed change but shall require an application to the local

government to amend the ~~a~~ development order in accordance with the local government's procedures for amendment of a development order. In accordance with the local government's procedures, including requirements for notice to the applicant and the public, the local government shall either deny the application for amendment or adopt an amendment to the development order which approves the application with or without conditions. Following adoption, the local government shall render the amendment to the development order to the state land planning agency. The state land planning agency may appeal, pursuant to s. 380.07(a), the amendment to development order if the amendment involves subparagraphs g, h, j, or k above and it believes the change creates a reasonable likelihood of new or additional regional impacts. ~~amendment for any change listed in sub-subparagraphs a.-j. unless such issue is addressed either in the existing development order or in the application for development approval, but, in the case of the application, only if, and in the manner in which, the application is incorporated in the development order~~.

3. Except for the change authorized by sub-subparagraph 2.f., any addition of land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.

4. Any submittal of a proposed change to a previously approved development shall include a description of individual changes previously made to the development, including changes previously approved by the local government. The local government shall consider the previous and current proposed changes in deciding whether such changes cumulatively constitute

a substantial deviation requiring further development-of-regional-impact review.

5. The following changes to an approved development of regional impact shall be presumed to create a substantial deviation. Such presumption may be rebutted by clear and convincing evidence.

a. A change proposed for 15 percent or more of the acreage to a land use not previously approved in the development order. Changes of less than 15 percent shall be presumed not to create a substantial deviation.

~~b. Except for the types of uses listed in subparagraph (b)16., any change which would result in the development of any area which was specifically set aside in the application for development approval or in the development order for preservation, buffers, or special protection, including habitat for plant and animal species, archaeological and historical sites, dunes, and other special areas.~~

b.~~c.~~ Notwithstanding any provision of paragraph (b) to the contrary, a proposed change consisting of simultaneous increases and decreases of at least two of the uses within an authorized multiuse development of regional impact which was originally approved with three or more uses specified in s. 380.0651(3)(c), (d), (f), and (g) and residential use.

(f)1. The state land planning agency shall establish by rule standard forms for submittal of proposed changes to a previously approved development of regional impact which may require further development-of-regional-impact review. At a minimum, the standard form shall require the developer to provide the precise language that the developer proposes to delete or add as an amendment to the development order.

2. The developer shall submit, simultaneously, to the local government, the regional planning agency, and the state land planning agency the request for approval of a proposed change.

3. No sooner than 30 days but no later than 45 days after submittal by the developer to the local government, the state land planning agency, and the appropriate regional planning agency, the local government shall give 15 days' notice and schedule a public hearing to consider the change that the developer asserts does not create a substantial deviation. This public hearing shall be held within 60 ~~90~~ days after submittal of the proposed changes, unless that time is extended by the developer.

4. The appropriate regional planning agency or the state land planning agency shall review the proposed change and, no later than 45 days after submittal by the developer of the proposed change, unless that time is extended by the developer, and prior to the public hearing at which the proposed change is to be considered, shall advise the local government in writing whether it objects to the proposed change, shall specify the reasons for its objection, if any, and shall provide a copy to the developer.

5. At the public hearing, the local government shall determine whether the proposed change requires further development-of-regional-impact review. The provisions of paragraphs (a) and (e), the thresholds set forth in paragraph (b), and the presumptions set forth in paragraphs (c) and (d) and subparagraph (e)3. shall be applicable in determining whether further development-of-regional-impact review is required.

6. If the local government determines that the proposed change does not require further development-of-regional-impact review and is otherwise approved, or if the proposed change is not subject to a hearing and determination pursuant to subparagraphs 3. and 5. and is otherwise approved, the local government shall issue an amendment to the development order incorporating the approved change and conditions of approval relating to the change. The decision of the local government to approve, with or without conditions, or to deny the proposed change that the developer asserts does not require further review shall be subject to the appeal provisions of s. 380.07. However, the state land planning agency may not appeal the local government decision if it did not comply with subparagraph 4. The state land planning agency may not appeal a change to a development order made pursuant to subparagraph (e)1. or subparagraph (e)2. for developments of regional impact approved after January 1, 1980, unless the change would result in a significant impact to a regionally significant archaeological, historical, or natural resource not previously identified in the original development-of-regional-impact review.

(g) If a proposed change requires further development-of-regional-impact review pursuant to this section, the review shall be conducted subject to the following additional conditions:

1. The development-of-regional-impact review conducted by the appropriate regional planning agency shall address only those issues raised by the proposed change except as provided in subparagraph 2.

2. The regional planning agency shall consider, and the local government shall determine whether to approve, approve with conditions, or deny the proposed change as it relates to

the entire development. If the local government determines that the proposed change, as it relates to the entire development, is unacceptable, the local government shall deny the change.

3. If the local government determines that the proposed change~~, as it relates to the entire development,~~ should be approved, any new conditions in the amendment to the development order issued by the local government shall address only those issues raised by the proposed change and require mitigation only for the individual and cumulative impacts of the proposed change.

4. Development within the previously approved development of regional impact may continue, as approved, during the development-of-regional-impact review in those portions of the development which are not directly affected by the proposed change.

(h) When further development-of-regional-impact review is required because a substantial deviation has been determined or admitted by the developer, the amendment to the development order issued by the local government shall be consistent with the requirements of subsection (15) and shall be subject to the hearing and appeal provisions of s. 380.07. The state land planning agency or the appropriate regional planning agency need not participate at the local hearing in order to appeal a local government development order issued pursuant to this paragraph.

(24) STATUTORY EXEMPTIONS.--

(a) Any proposed hospital ~~which has a designed capacity of not more than 100 beds~~ is exempt from the provisions of this section.

(b) Any proposed electrical transmission line or electrical power plant is exempt from the provisions of this section~~, except any steam or solar electrical generating~~

~~facility of less than 50 megawatts in capacity attached to a development of regional impact~~.

(c) Any proposed addition to an existing sports facility complex is exempt from the provisions of this section if the addition meets the following characteristics:

1. It would not operate concurrently with the scheduled hours of operation of the existing facility.

2. Its seating capacity would be no more than 75 percent of the capacity of the existing facility.

3. The sports facility complex property is owned by a public body prior to July 1, 1983.

This exemption does not apply to any pari-mutuel facility.

(d) Any proposed addition or cumulative additions subsequent to July 1, 1988, to an existing sports facility complex owned by a state university is exempt if the increased seating capacity of the complex is no more than 30 percent of the capacity of the existing facility.

(e) Any addition of permanent seats or parking spaces for an existing sports facility located on property owned by a public body prior to July 1, 1973, is exempt from the provisions of this section if future additions do not expand existing permanent seating or parking capacity more than 15 percent annually in excess of the prior year's capacity.

(f) Any increase in the seating capacity of an existing sports facility having a permanent seating capacity of at least 50,000 spectators is exempt from the provisions of this section, provided that such an increase does not increase permanent seating capacity by more than 5 percent per year and not to exceed a total of 10 percent in any 5-year period, and provided that the sports facility notifies the appropriate local

government within which the facility is located of the increase at least 6 months prior to the initial use of the increased seating, in order to permit the appropriate local government to develop a traffic management plan for the traffic generated by the increase. Any traffic management plan shall be consistent with the local comprehensive plan, the regional policy plan, and the state comprehensive plan.

(g) Any expansion in the permanent seating capacity or additional improved parking facilities of an existing sports facility is exempt from the provisions of this section, if the following conditions exist:

1.a. The sports facility had a permanent seating capacity on January 1, 1991, of at least 41,000 spectator seats;

b. The sum of such expansions in permanent seating capacity does not exceed a total of 10 percent in any 5-year period and does not exceed a cumulative total of 20 percent for any such expansions; or

c. The increase in additional improved parking facilities is a one-time addition and does not exceed 3,500 parking spaces serving the sports facility; and

2. The local government having jurisdiction of the sports facility includes in the development order or development permit approving such expansion under this paragraph a finding of fact that the proposed expansion is consistent with the transportation, water, sewer and stormwater drainage provisions of the approved local comprehensive plan and local land development regulations relating to those provisions.

Any owner or developer who intends to rely on this statutory exemption shall provide to the department a copy of the local government application for a development permit. Within 45 days

of receipt of the application, the department shall render to the local government an advisory and nonbinding opinion, in writing, stating whether, in the department's opinion, the prescribed conditions exist for an exemption under this paragraph. The local government shall render the development order approving each such expansion to the department. The owner, developer, or department may appeal the local government development order pursuant to s. 380.07, within 45 days after the order is rendered. The scope of review shall be limited to the determination of whether the conditions prescribed in this paragraph exist. If any sports facility expansion undergoes development of regional impact review, all previous expansions which were exempt under this paragraph shall be included in the development of regional impact review.

(h) Expansion to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related inwater harbor facilities of ports listed in s. 403.021(9)(b), port transportation facilities and projects listed in s. 311.07(3)(b), and intermodal transportation facilities identified pursuant to s. 311.09(3) are exempt from the provisions of this section when such expansions, projects, or facilities are consistent with comprehensive master plans that are in compliance with the provisions of s. 163.3178.

(i) Any proposed facility for the storage of any petroleum product or any expansion of an existing facility is exempt from the provisions of this section.~~, if the facility is consistent with a local comprehensive plan that is in compliance with s. 163.3177 or is consistent with a comprehensive port master plan that is in compliance with s. 163.3178.~~

(j) Any renovation or redevelopment within the same land parcel which does not change land use or increase density or intensity of use.

(k) Waterport and marina development, including dry storage facilities, are exempt from the provisions of this section. ~~(k)1. Any waterport or marina development is exempt from the provisions of this section if the relevant county or municipality has adopted a boating facility siting plan or policy, which includes applicable criteria, considering such factors as natural resources, manatee protection needs, and recreation and economic demands as generally outlined in the Bureau of Protected Species Management Boat Facility Siting Guide, dated August 2000, into the coastal management or land use element of its comprehensive plan. The adoption of boating facility siting plans or policies into the comprehensive plan is exempt from the provisions of s. 163.3187(1). Any waterport or marina development within the municipalities or counties with boating facility siting plans or policies that meet the above criteria, adopted prior to April 1, 2002, are exempt from the provisions of this section, when their boating facility siting plan or policy is adopted as part of the relevant local government's comprehensive plan.~~

~~2. Within 6 months of the effective date of this law, The Department of Community Affairs, in conjunction with the Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission, shall provide technical assistance and guidelines, including model plans, policies and criteria to local governments for the development of their siting plans.~~

(l) Any proposed development within an urban service boundary established under s. 163.3177(14) is exempt from the

provisions of this section if the local government having jurisdiction over the area where the development is proposed has adopted the urban service boundary, ~~and~~ has entered into a binding agreement with ~~adjacent~~ jurisdictions that would be impacted and with the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

(m) Any proposed development within a rural land stewardship area created under s. 163.3177(11)(d) is exempt from the provisions of this section if the local government that has adopted the rural land stewardship area has entered into a binding agreement with jurisdictions that would be impacted and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

(n) Any proposed development or redevelopment within an area designated as an urban infill and redevelopment area under s. 163.2517 is exempt from ~~the provisions of~~ this section if the local government has entered into a binding agreement with jurisdictions that would be impacted and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

(o) The establishment, relocation, or expansion of any military installation as defined in s. 163.3175, is exempt from this section.

(p) Any self-storage warehousing that does not allow retail or other services is exempt from this section.

(q) Any proposed nursing home or assisted living facility is exempt from this section.

(r) Any development identified in an airport master plan and adopted into the comprehensive plan pursuant to s. 163.3177(6)(k) is exempt from this section.

(s) Any development identified in a campus master plan and adopted pursuant to s. 1013.30 is exempt from this section.

(t) Any development in a specific area plan which is prepared pursuant to s. 163.3245 and adopted into the comprehensive plan is exempt from this section.

If a use is exempt from review as a development of regional impact under paragraphs (a)-(t) but will be part of a larger project that is subject to review as a development of regional impact, the impact of the exempt use must be included in the review of the larger project.

(28) PARTIAL STATUTORY EXEMPTIONS.--

(a) If the binding agreement referenced under paragraph (24)(l) for urban service boundaries is not entered into within 12 months after establishment of the urban service boundary, the development-of-regional-impact review for projects within the urban service boundary must address transportation impacts only.

(b) If the binding agreement referenced under paragraph (24)(n) for designated urban infill and redevelopment areas is not entered into within 12 months after the designation of the area or July 1, 2007, whichever occurs later, the development-of-regional-impact review for projects within the urban infill and redevelopment area must address transportation impacts only.

(c) If the binding agreement referenced under paragraph (24(m) for rural land stewardship areas is not entered into within 12 months after the designation of a rural land

stewardship area, the development-of-regional-impact review for projects within the rural land stewardship area must address transportation impacts only.

(d) A local government that does not wish to enter into a binding agreement or that is unable to agree on the terms of the agreement referenced under paragraph (24)(l), paragraph (24)(m), or paragraph (24)(n) shall provide written notification to the state land planning agency of the desire not to enter into a binding agreement or failure to enter into a bind agreement within the 12-month period referenced in paragraphs (a), (b) and (c). Following the notification of the state land planning agency, the development-of-regional-impact review for projects within the urban service boundary under paragraph (24)(l), a rural land stewardship area under paragraph (24)(m), or for an urban infill and redevelopment area under paragraph (24)(n) must address transportation impacts only.

Section 2. Paragraphs (d) and (e) of subsection (3) of section 380.0651, Florida Statutes, are amended, paragraph (k) of subsection (3) is redesignated as paragraph (l), and a new paragraph (k) is added to that subsection, to read:

380.0651 Statewide guidelines and standards.--

(3) The following statewide guidelines and standards shall be applied in the manner described in s. 380.06(2) to determine whether the following developments shall be required to undergo development-of-regional-impact review:

(d) Office development.--Any proposed office building or park operated under common ownership, development plan, or management that:

1. Encompasses 300,000 or more square feet of gross floor area; or

2. Encompasses more than 600,000 square feet of gross floor area in a county with a population greater than 500,000 and only in a geographic area specifically designated as highly suitable for increased threshold intensity in the approved local comprehensive plan ~~and in the strategic regional policy plan~~.

~~(e) Port facilities.--The proposed construction of any waterport or marina is required to undergo development-of-regional-impact review except one designed for:~~

~~1.a. The wet storage or mooring of fewer than 150 watercraft used exclusively for sport, pleasure, or commercial fishing~~;~~, or~~

~~b. The dry storage of fewer than 200 watercraft used exclusively for sport, pleasure, or commercial fishing, or~~

~~c. The wet or dry storage or mooring of fewer than 150 watercraft on or adjacent to an inland freshwater lake except Lake Okeechobee or any lake which has been designated an Outstanding Florida Water, or~~

~~d. The wet or dry storage or mooring of fewer than 50 watercraft of 40 feet in length or less of any type or purpose.~~

~~The exceptions to this paragraph's requirements for development-of-regional-impact review shall not apply to any waterport or marina facility located within or which serves physical development located within a coastal barrier resource unit on an unbridged barrier island designated pursuant to 16 U.S.C. s. 3501.~~

~~In addition to the foregoing, for projects for which no environmental resource permit or sovereign submerged land lease is required, the Department of Environmental Protection must determine in writing that a proposed marina in excess of 75 10 slips or storage spaces or a combination of the two is located~~

~~so that it will not adversely impact Outstanding Florida Waters or Class II waters and will not contribute boat traffic in a manner that will have an adverse impact on an area known to be, or likely to be, frequented by manatees. If the Department of Environmental Protection fails to issue its determination within 45 days of receipt of a formal written request, it has waived its authority to make such determination. The Department of Environmental Protection determination shall constitute final agency action pursuant to chapter 120.~~

~~2. The dry storage of fewer than 300 watercraft used exclusively for sport, pleasure, or commercial fishing at a marina constructed and in operation prior to July 1, 1985.~~

~~3. Any proposed marina development with both wet and dry mooring or storage used exclusively for sport, pleasure, or commercial fishing, where the sum of percentages of the applicable wet and dry mooring or storage thresholds equals 100 percent. This threshold is in addition to, and does not preclude, a development from being required to undergo development-of-regional-impact review under sub-subparagraphs 1.a. and b. and subparagraph 2.~~

(k) Workforce housing.--The applicable guidelines for residential development and the residential component for multiuse development shall be increased by 20 percent where the developer demonstrates that at least 15 percent of the residential dwelling units will be dedicated to workforce housing. For purposes of this subparagraph, the term "workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income.

(l) ~~(k)~~ Schools.--

1. The proposed construction of any public, private, or proprietary postsecondary educational campus which provides for

a design population of more than 5,000 full-time equivalent students, or the proposed physical expansion of any public, private, or proprietary postsecondary educational campus having such a design population that would increase the population by at least 20 percent of the design population.

2. As used in this paragraph, "full-time equivalent student" means enrollment for 15 or more quarter hours during a single academic semester. In career centers or other institutions which do not employ semester hours or quarter hours in accounting for student participation, enrollment for 18 contact hours shall be considered equivalent to one quarter hour, and enrollment for 27 contact hours shall be considered equivalent to one semester hour.

3. This paragraph does not apply to institutions which are the subject of a campus master plan adopted by the university board of trustees pursuant to s. 1013.30.

Section 3. Section 380.07, Florida Statutes, is amended to read:

380.07 Florida Land and Water Adjudicatory Commission.--

(1) There is hereby created the Florida Land and Water Adjudicatory Commission, which shall consist of the Administration Commission. The commission may adopt rules necessary to ensure compliance with the area of critical state concern program and the requirements for developments of regional impact as set forth in this chapter.

(2) Whenever any local government issues any development order in any area of critical state concern, or in regard to any development of regional impact, copies of such orders as prescribed by rule by the state land planning agency shall be transmitted to the state land planning agency, the regional planning agency, and the owner or developer of the property

affected by such order. The state land planning agency shall adopt rules describing development order rendition and effectiveness in designated areas of critical state concern. Within 45 days after the order is rendered, the owner, the developer, or the state land planning agency may appeal the order to the Florida Land and Water Adjudicatory Commission by filing a petition alleging that the development order is not consistent with the provisions of this part ~~notice of appeal with the commission~~. The appropriate regional planning agency by vote at a regularly scheduled meeting may recommend that the state land planning agency undertake an appeal of a development-of-regional-impact development order. Upon the request of an appropriate regional planning council, affected local government, or any citizen, the state land planning agency shall consider whether to appeal the order and shall respond to the request within the 45-day appeal period. ~~Any appeal taken by a regional planning agency between March 1, 1993, and the effective date of this section may only be continued if the state land planning agency has also filed an appeal. Any appeal initiated by a regional planning agency on or before March 1, 1993, shall continue until completion of the appeal process and any subsequent appellate review, as if the regional planning agency were authorized to initiate the appeal.~~

(3) Notwithstanding any other provision of law, an appeal of a development order by the state land planning agency under this section may include consistency of the development order with the local comprehensive plan. However, if a development order relating to a development of regional impact has been challenged in a proceeding under s. 163.3215 and a party to the proceeding serves notice to the state land planning agency of

the pending proceeding under s. 163.3215, the state land planning agency shall:

(a) Raise its consistency issues by intervening as a full party in the pending proceeding under s. 163.3215 within 30 days after service of the notice; and

(b) Dismiss the consistency issues from the development order appeal.

(4) The appellant shall furnish a copy of the petition to the opposing party, as the case may be, and to the local government that issued the order. The filing of the petition stays the effectiveness of the order until after the completion of the appeal process.

(5) ~~(3)~~ The 45-day appeal period for a development of regional impact within the jurisdiction of more than one local government shall not commence until after all the local governments having jurisdiction over the proposed development of regional impact have rendered their development orders. The appellant shall furnish a copy of the notice of appeal to the opposing party, as the case may be, and to the local government which issued the order. The filing of the notice of appeal shall stay the effectiveness of the order until after the completion of the appeal process.

(6) ~~(4)~~ Prior to issuing an order, the Florida Land and Water Adjudicatory Commission shall hold a hearing pursuant to the provisions of chapter 120. The commission shall encourage the submission of appeals on the record made below in cases in which the development order was issued after a full and complete hearing before the local government or an agency thereof.

(7) ~~(5)~~ The Florida Land and Water Adjudicatory Commission shall issue a decision granting or denying permission to develop

pursuant to the standards of this chapter and may attach conditions and restrictions to its decisions.

~~(6) If an appeal is filed with respect to any issues within the scope of a permitting program authorized by chapter 161, chapter 373, or chapter 403 and for which a permit or conceptual review approval has been obtained prior to the issuance of a development order, any such issue shall be specifically identified in the notice of appeal which is filed pursuant to this section, together with other issues which constitute grounds for the appeal. The appeal may proceed with respect to issues within the scope of permitting programs for which a permit or conceptual review approval has been obtained prior to the issuance of a development order only after the commission determines by majority vote at a regularly scheduled commission meeting that statewide or regional interests may be adversely affected by the development. In making this determination, there shall be a rebuttable presumption that statewide and regional interests relating to issues within the scope of the permitting programs for which a permit or conceptual approval has been obtained are not adversely affected.~~

Section 4. Section 380.115, Florida Statutes, is amended to read:

380.115 Vested rights and duties; effect of size reduction, changes in guidelines and standards ~~chs. 2002-20 and 2002-296~~.--

(1) A change in a development-of-regional-impact guideline and standard does not abridge ~~Nothing contained in this act abridges~~ or modify ~~modifies~~ any vested or other right or any duty or obligation pursuant to any development order or agreement that is applicable to a development of regional impact

~~on the effective date of this act~~. A development that has received a development-of-regional-impact development order pursuant to s. 380.06, but is no longer required to undergo development-of-regional-impact review by operation of a change in the guidelines and standards or has reduced its size below the thresholds in s. 380.0651 ~~of this act~~, shall be governed by the following procedures:

(a) The development shall continue to be governed by the development-of-regional-impact development order and may be completed in reliance upon and pursuant to the development order unless the developer or landowner has followed the procedures for rescission in paragraph (b). Any proposed changes to those developments which continue to be governed by a development order shall be approved pursuant to s. 380.06(19) as it existed prior to a change in the development-of-regional-impact guidelines and standards except that all percentage criteria shall be doubled and all other criteria shall be increased by 10 percent. The development-of-regional-impact development order may be enforced by the local government as provided by ss. 380.06(17) and 380.11.

(b) If requested by the developer or landowner, the development-of-regional-impact development order shall ~~may~~ be rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed ~~abandoned pursuant to the process in s. 380.06(26)~~.

(2) A development with an application for development approval pending, ~~and determined sufficient~~ pursuant to s. 380.06 ~~s. 380.06(10)~~, on the effective date of a change to the guidelines and standards ~~this act~~, or a notification of proposed change pending on the effective date of a change to the

guidelines and standards ~~this act~~, may elect to continue such review pursuant to s. 380.06. At the conclusion of the pending review, including any appeals pursuant to s. 380.07, the resulting development order shall be governed by the provisions of subsection (1).

(3) A landowner that has filed an application for a development-of-regional-impact review prior to the adoption of an optional sector plan pursuant to s. 163.3245 may elect to have the application reviewed pursuant to s. 380.06, comprehensive plan provisions in force prior to adoption of the sector plan, and any requested comprehensive plan amendments that accompany the application.

Section 5. Section 342.07, Florida Statutes, is amended to read:

342.07 Recreational and commercial working waterfronts; legislative findings; definitions.--

(1) The Legislature recognizes that there is an important state interest in facilitating boating and other recreational access to the state's navigable waters. This access is vital to tourists and recreational users and the marine industry in the state, to maintaining or enhancing the $57 billion economic impact of tourism and the $14 billion economic impact of boating in the state annually, and to ensuring continued access to all residents and visitors to the navigable waters of the state. The Legislature recognizes that there is an important state interest in maintaining viable water-dependent support facilities, such as public lodging establishments and boat hauling and repairing and commercial fishing facilities, and in maintaining the availability of public access to the navigable waters of the state. The Legislature further recognizes that the waterways of the state are important for engaging in commerce and the

transportation of goods and people upon such waterways and that such commerce and transportation is not feasible unless there is access to and from the navigable waters of the state through recreational and commercial working waterfronts.

(2) As used in this section, the term "recreational and commercial working waterfront" means a parcel or parcels of real property that provide access for water-dependent commercial and recreational activities, including public lodging establishments as defined in chapter 509, or provide access for the public to the navigable waters of the state. Recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the state or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water. As used in this section, the term "vessel" has the same meaning as in s. 327.02(37). Seaports are excluded from the definition.

Section 6. Section 373.4132, Florida Statutes is created to read:

The governing board or the department shall require a permit under this part, including s.373.4145, for the construction, alteration, operation, maintenance, abandonment or removal of a dry storage facility for 10 or more vessels, which is functionally associated with a boat launching area. As part of an applicant's demonstration that such a facility will not be harmful to the water resources and will not be inconsistent with

the overall objectives of the district, the governing board or department shall require the applicant to provide reasonable assurance that the secondary impacts from the facility will not cause adverse impacts to the functions of wetlands and surface waters, including violations of state water quality standards applicable to water as defined in s. 403.031(1), and will meet the public interest test of s. 373.414(1)(a), including the potentials of adverse impacts to manatees. Nothing in this section shall affect the authority of the governing board or the department to regulate such secondary impacts under this part for other regulated activities.

Section 7. 403.813, Florida Statutes paragraph (2)(i) of subsection 403.813, Florida Statutes is amended to read:

403.813 Permits issued at district centers; exceptions.-

(2) A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, for activities associated with the following types of projects; however, except as otherwise provided in this subsection, nothing in this subsection relieves an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the internal Improvement Trust Fund or any water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(i) The construction of private docks and seawalls of 1,000 square feet or less of over-water surface area in artificially created waterways where such construction will not violate existing water quality standards, impede navigation, or affect flood control. This exemption does not apply to the

construction of vertical seawalls in estuaries or lagoons unless the proposed construction is within an existing manmade canal where the shoreline is currently occupied in whole or part by vertical seawalls.

Section 8. Section 163.3177(6)(g) is added to read:

As part of this element, affected local governments are encouraged to adopt a boating facility siting plan or policy that includes applicable criteria, considering such factors as natural resources, manatee protection needs, and recreation and economic demands as generally outlined in the Boat Facility Siting Guide dated August 2000 and prepared by the Bureau of Protected Species Management of the Florida Fish and Wildlife Conservation Commission. The adoption of a boating facility siting plan or policy into the comprehensive plan is exempt from the provisions of s. 163.3187(1). Local governments that wish to adopt a boating facility siting plan or policy may be eligible for assistance with the development of a plan or policy through the Florida Coastal Management Program.

Section 9. 197.303 Ad valorem tax deferral for recreational and commercial working waterfront properties is amended to read

(3) The ordinance shall designate the percentage or amount of the deferral and the type and location of working, waterfront property, including the type of public lodging establishments, for which deferrals may be granted, which may include any property meeting the provisions, of s. 342.07(2), which property may be further required to be located within a particular geographic area or areas of the county or municipality.

Section 10. This act shall take effect July 1, 2006.

1126 ========== T I T L E A M E N D M E N T ==========

1127 Remove the entire title and insert:

1128 An act relating to growth management; amending s. 380.06,

1129 F.S.; providing for the state land planning agency to

1130 determine the amount of development that remains to be

1131 built in certain circumstances; specifying certain

1132 requirements for a development order; revising the

1133 circumstances in which a local government may issue

1134 permits for development subsequent to the buildout date;

1135 revising the definition of an essentially built-out

1136 development; revising the criteria under which a proposed

1137 change constitutes a substantial deviation; clarifying the

1138 criteria under which the extension of a buildout date is

1139 presumed to create a substantial deviation; requiring

1140 notice of any change to certain set-aside areas be

1141 submitted to the local government; requiring that notice

1142 of certain changes be given to the state land planning

1143 agency, regional planning agency, and local government;

1144 requiring 45 days' notice to specified entities and

1145 publication of a public notice for certain proposed

1146 changes; requiring that a memorandum of notice of certain

1147 changes be filed with the clerk of court; revising the

1148 requirement for further development-of-regional-impact

1149 review of a proposed change; revising the statutory

1150 exemptions from development-of-regional-impact review for

1151 certain facilities; providing statutory exemptions for the

1152 development of certain facilities; providing that the

1153 impacts from an exempt use that will be part of a larger

1154 project be included in the development-of-regional-impact

1155 review of the larger project; amending s. 380.0651, F.S.;

1156 revising the statewide guidelines and standards for

development-of-regional-impact review of certain types of developments; allowing the state land planning agency to consider the impacts of independent developments of regional impact cumulatively under certain circumstances; amending s. 380.07, F.S.; eliminating the appeal of development orders within a development of regional impact to the Florida Land and Water Adjudicatory Commission; amending s. 380.115, F.S.; providing that a change in a development-of-regional-impact guideline and standard does not abridge or modify any vested right or duty under a development order; providing a process for the rescission of a development order by the local government in certain circumstances; providing an exemption for certain applications for development approval and notices of proposed changes; amending s. 342.07, F.S.; adding recreational activities as an important state interest; including public lodging establishments within the definition of the term "recreational and commercial working waterfront"; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1309 Local Housing Assistance
SPONSOR(S): Jennings
TIED BILLS: **IDEN./SIM. BILLS:** SB 2408

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Growth Management Committee		Strickland	Grayson
2) Local Government Council			
3) Transportation & Economic Development Appropriations Committee			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

HB 1309 amends existing law relating to local housing assistance plans by providing homeownership down payment assistance to "essential service personnel" and "building trades personnel." The bill accomplishes this by:

- Providing homeownership down payment assistance eligibility criteria, including a 5-year commitment; an assistance limit of 25% of the purchase price; and verification of compliance.
- Providing for removal of security lien upon completion of the 5-year commitment by the eligible employee.
- Encouraging local governments to incorporate provisions within the local housing assistance plan to better recruit and retain "essential service personnel" and "skilled trades personnel."
- Providing for the allocation of funds.
- Providing the Florida Housing Finance Corporation (Corporation) with rulemaking authority to implement the provisions of this bill.
- Providing an appropriation to the Corporation from the Local Government Housing Trust Fund in an amount to be sufficient for the purpose of providing funds for affordable housing to assist in the retention and recruitment of "essential service personnel" and "persons skilled in the building trades."

The fiscal impacts to the state and local governments are indeterminate.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty – The bill increases the options of individuals in the conduct of their own affairs.

Empower families – The bill increases the opportunities of local governments, governmental entities, and private organizations to support, assist, and encourage families in circumstances occasioning need; and increases family stability, self support, and management.

B. EFFECT OF PROPOSED CHANGES:

Effect of Proposed Changes

HB 1309 amends existing law relating to local housing assistance plans by providing homeownership down payment assistance to "essential service personnel" and "building trades personnel." The bill accomplishes this by:

- Providing homeownership down payment assistance eligibility criteria, including a 5-year commitment; an assistance limit of 25% of the purchase price; and verification of compliance.
- Providing for removal of security lien upon completion of the 5-year commitment by the eligible employee.
- Encouraging local governments to incorporate provisions within the local housing assistance plan to better recruit and retain "essential service personnel" and "skilled trades personnel."
- Providing for the allocation of funds.
- Providing the Florida Housing Finance Corporation (Corporation) with rulemaking authority to implement the provisions of this bill.
- Providing an appropriation to the Corporation from the Local Government Housing Trust Fund in an amount to be sufficient for the purpose of providing funds for affordable housing to assist in the retention and recruitment of "essential service personnel" and "persons skilled in the building trades."

The bill requires that certain provisions be included within the local housing assistance plan in order to provide "essential service personnel" and "skilled building trades personnel" with homeownership down payment assistance. In addition to the features outlined below, the bill make conforming cross-reference changes.

Local Housing Assistance Plan

The bill encourages inclusion of provisions into the local housing assistance plan relating to the recruitment and retention of service personnel and skilled trades personnel by providing for homeownership down payment assistance.

Eligibility Criteria: The bill requires that in addition to meeting other conditions within the local housing assistance plan, the employee must:

- Be a full time employee in an "essential service occupation" or "skilled building trade."
- Declare homestead on the home and maintain residency at the residence.
- Demonstrate a 5-year minimum commitment to continued employment in an essential service occupation or skilled building trade within the county of current employment.

Employee Compliance: The bill requires the county or eligible municipality to verify the eligibility criteria set forth above during the life of the loan.

Amount of Down Payment Assistance: The bill provides that the amount of down payment assistance shall be determined by rule, but cannot exceed 25% of the purchase price of the home. This assistance may only be provided if the county, or eligible city in which the employee is employed, provides this funding assistance to the eligible employee, solely or in conjunction with a local housing finance agency or a private sector partner, through its State Housing Initiatives Partnership Program (SHIP).

Security Lien Removal: The bill provides that any lien on the recipient's property securing the assistance addressed in this bill shall be released when the employee's 5-year commitment is fulfilled.

Creation of an element within the local housing assistance plan: The bill encourages each county and eligible municipality to develop an element within its local housing assistance plan that emphasizes the recruitment and retention of essential service personnel and persons skilled in the building trades.

Allocation of funds: The bill provides authority to the Corporation to allocate funds to implement this assistance provided for in this subsection and allocate funds to projects that are regional or statewide in scope.

Rulemaking: The bill authorizes the Corporation to initiate rulemaking to implement the provisions of this bill, including, but not limited to, the allocation of funds and selection of projects for funding under this subsection.

Appropriation: The bill provides for an appropriation from the Local Government Housing Trust Fund, for distribution through SHIP to the Corporation, in an amount to be sufficient for the purpose of providing funds for affordable housing to assist in the retention and recruitment of essential service personnel and person skilled in the building trades.

Background

The state has committed significant resources over the last decade to addressing the severe housing problems facing very low and low income residents of this state. Much of this effort is focused through programs of the Florida Housing Finance Corporation (Corporation). The Corporation's programs are funded in part with revenues generated by the documentary stamp tax, which are most often coupled with federal funding. These "affordable housing" programs have traditionally targeted families making 60% or less of the area median income (AMI) in the rental programs, and those making 80% or less of AMI in the home ownership programs.

The Corporation allocates documentary stamp funds to local governments through the State Housing Initiatives Partnership (SHIP). The large majority of SHIP funds are directed by statute toward home ownership activities, generally serving those with incomes up to 120% AMI.

In the current market, the need for affordable housing has outstripped the production capacity of the existing federal, state, and local affordable housing programs. Due to dramatic increases in housing costs coupled with modest rises in incomes, many low income and moderate income Florida families can no longer afford safe, decent and affordable single family housing.

In addition to the needs of the very low and low income families, recent steep increases in real estate prices have also effectively priced moderate income families out of the market. Florida is experiencing a critical shortage of housing for individuals who are employed in essential service occupations, such as teachers, police, hospital workers, and others who do not qualify for existing affordable housing

programs. As a result, many communities are finding it increasingly difficult to recruit, employ, and retain personnel necessary to provide essential public services to Florida's communities.

The Florida Housing Finance Corporation (Corporation)

The Corporation was created by the Legislature as a public corporation that administers the governmental function of financing or refinancing housing and related facilities in Florida. The Corporation administers various programs which facilitate the development and purchase of affordable housing for Floridians. These programs are financed through a variety of state, federal and local sources.

State Housing Initiatives Partnership Program (SHIP)

The Corporation administers the SHIP, which provides funds to local governments as an incentive to create partnerships that produce and preserve affordable homeownership and multifamily housing. The program was designed to serve very low, low and moderate income families. Depending on an individual's income, a person could be eligible for home repair or replacement, down payment assistance, rental housing assistance and other affordable housing assistance.

Local Housing Assistance Plan

A local housing assistance plan is statutorily defined in s. 420.9071, F.S., as a "concise description of the local housing assistance strategies and local housing incentive strategies adopted by local government resolution with an explanation of the way in which the program meets the requirements of ss. 420.907-420.9079, F.S. and [Corporation] rule."

C. SECTION DIRECTORY:

Section 1: Amends s. 420.9075, F.S., relating to local housing assistance plans and partnerships.

Section 2: Amends s. 420.9072, F.S., relating to the State Housing Initiatives Partnership by conforming language to changes provided for in this bill.

Section 3: Amends s. 420.9079, F.S., relating to the Local Government Housing Trust Fund by conforming language to changes provided for in this bill.

Section 4: Creates an appropriation from the Local Government Housing Trust Fund.

Section 5: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Indeterminate. The state may be benefited by the provision of essential workforce housing in support of commerce which may result in increased state revenues.

2. Expenditures:

   Indeterminate. The level of funding to support the local housing financial assistance provided for this bill is not established.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. Local governments may be benefited by the provision of essential workforce housing in support of commerce which may result in increased state revenues.

2. Expenditures:

Indeterminate. The bill provides encouragement and opportunity for local government to support the affordable housing efforts advance by this bill, but does not require any particular level of financial commitment.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a beneficial impact on the private sector in the following manner:

- Provides incentives for the private sector development and provision of affordable housing.
- Provides housing opportunities for certain types of employees, thus supporting some private and public employers by authorizing means by which they may assist employees to secure affordable housing.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

There do not appear to be any other constitutional issues.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Florida Housing Finance Corporation to initiate rulemaking to implement the provisions of this bill, including, but not limited to, the allocation of funds and selection of projects for funding.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill applies to "essential service personnel" and "skilled building codes personnel." Consistent use of these terms when referring to these occupations would provide more clarity.

- "essential service personnel" and "skilled building codes personnel" [Section 1 - (5)]
- "essential service occupation or skilled building trade." [Section 1 - (5)(a) 1]
- "persons skilled in the building trades." [Section 1 - (5)(f)]

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

A bill to be entitled

An act relating to local housing assistance; amending s. 420.9075, F.S.; providing down payment assistance to essential service and skilled building trades personnel; providing criteria for such assistance; requiring compliance with the eligibility criteria to be verified by the county or eligible municipality; providing that the program shall provide down payment assistance in an amount to be determined by rule; providing that liens on the recipient's property securing the assistance shall be released under certain conditions; encouraging counties and municipalities to develop an element within their local housing assistance plans emphasizing the recruitment and retention of such personnel; authorizing the Florida Housing Finance Corporation to allocate certain funds; providing the corporation with rulemaking authority; amending ss. 420.9072 and 420.9079, F.S.; conforming cross-references to changes made by the act; providing an appropriation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (5) through (12) of section 420.9075, Florida Statutes, are renumbered as subsections (6) through (13), respectively, and a new subsection (5) is added to that section to read:

420.9075 Local housing assistance plans; partnerships.--

(5) In order to assist in the recruitment and retention of essential service personnel and skilled building trades personnel, the following shall be included in the local housing assistance plan:

(a) Down payment assistance shall be provided to an eligible person who meets the following criteria, in addition to other requirements of the plan. The person:

1. Shall be employed full time in an essential service occupation or skilled building trade.

2. Shall declare his or her homestead and maintain residency at his or her homestead.

3. Shall demonstrate a 5-year minimum commitment to continued employment in an essential service occupation or skilled building trade within the county of current employment.

(b) Compliance with the eligibility criteria established under this subsection shall be verified during the life of the loan by the county or eligible municipality.

(c) The program shall provide down payment assistance in an amount to be determined by rule, not to exceed 25 percent of purchase price, if the county or eligible municipality within which an eligible recipient is employed provides funding through the State Housing Initiatives Partnership Program to the eligible recipient under ss. 420.907-420.9079, whether solely or in conjunction with a local housing finance agency or a private sector partner.

(d) Any lien on the recipient's property securing the assistance provided under this subsection shall be released if

the recipient fulfills the 5-year commitment specified in subparagraph (a)3.

(e) Each county and each eligible municipality is encouraged to develop an element within its local housing assistance plan that emphasizes the recruitment and retention of essential service personnel and persons skilled in the building trades.

(f) Notwithstanding the distribution formula in s. 420.9073, the corporation is authorized to allocate funds to implement this subsection and may allocate funds to projects that are regional or statewide in scope.

(g) The corporation is authorized to make rules to implement this subsection, including, but not limited to, the allocation of funds and selection of projects for funding under this subsection.

Section 2. Subsection (2) of section 420.9072, Florida Statutes, is amended to read:

420.9072 State Housing Initiatives Partnership Program.--The State Housing Initiatives Partnership Program is created for the purpose of providing funds to counties and eligible municipalities as an incentive for the creation of local housing partnerships, to expand production of and preserve affordable housing, to further the housing element of the local government comprehensive plan specific to affordable housing, and to increase housing-related employment.

(2)(a) To be eligible to receive funds under the program, a county or eligible municipality must:

1. Submit to the corporation its local housing assistance plan describing the local housing assistance strategies established pursuant to s. 420.9075;

2. Within 12 months after adopting the local housing assistance plan, amend the plan to incorporate the local housing incentive strategies defined in s. 420.9071(16) and described in s. 420.9076; and

3. Within 24 months after adopting the amended local housing assistance plan to incorporate the local housing incentive strategies, amend its land development regulations or establish local policies and procedures, as necessary, to implement the local housing incentive strategies adopted by the local governing body. A county or an eligible municipality that has adopted a housing incentive strategy pursuant to s. 420.9076 before the effective date of this act shall review the status of implementation of the plan according to its adopted schedule for implementation and report its findings in the annual report required by s. 420.9075(10) ~~(9)~~. If as a result of the review, a county or an eligible municipality determines that the implementation is complete and in accordance with its schedule, no further action is necessary. If a county or an eligible municipality determines that implementation according to its schedule is not complete, it must amend its land development regulations or establish local policies and procedures, as necessary, to implement the housing incentive plan within 12 months after the effective date of this act, or if extenuating circumstances prevent implementation within 12 months, pursuant

to s. 420.9075(13) ~~(12)~~, enter into an extension agreement with the corporation.

(b) A county or an eligible municipality seeking approval to receive its share of the local housing distribution must adopt an ordinance containing the following provisions:

1. Creation of a local housing assistance trust fund as described in s. 420.9075(6) ~~(5)~~.

2. Adoption by resolution of a local housing assistance plan as defined in s. 420.9071(14) to be implemented through a local housing partnership as defined in s. 420.9071(18).

3. Designation of the responsibility for the administration of the local housing assistance plan. Such ordinance may also provide for the contracting of all or part of the administrative or other functions of the program to a third person or entity.

4. Creation of the affordable housing advisory committee as provided in s. 420.9076.

The ordinance must not take effect until at least 30 days after the date of formal adoption. Ordinances in effect prior to the effective date of amendments to this section shall be amended as needed to conform to new provisions.

Section 3. Subsection (2) of section 420.9079, Florida Statutes, is amended to read:

420.9079 Local Government Housing Trust Fund.--

(2) The corporation shall administer the fund exclusively for the purpose of implementing the programs described in ss. 420.907-420.9078 and this section. With the exception of

monitoring the activities of counties and eligible municipalities to determine local compliance with program requirements, the corporation shall not receive appropriations from the fund for administrative or personnel costs. For the purpose of implementing the compliance monitoring provisions of s. 420.9075(9) ~~(8)~~, the corporation may request a maximum of $200,000 per state fiscal year. When such funding is appropriated, the corporation shall deduct the amount appropriated prior to calculating the local housing distribution pursuant to ss. 420.9072 and 420.9073.

Section 4. Effective July 1, 2006, there is appropriated from the Local Government Housing Trust Fund, for distribution through the State Housing Initiative Partnership Program as provided in s. 420.9075(5), Florida Statutes, to the Florida Housing Finance Corporation an amount sufficient for the purpose of providing funds for affordable housing to assist in retention and recruitment of essential service personnel and persons skilled in the building trades.

Section 5. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1363 Affordable Housing
SPONSOR(S): Davis and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Growth Management Committee		Grayson	Grayson
2) Local Government Council			
3) Fiscal Council			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

HB 1363 addresses the issue of affordable housing by:

- Creating the Community Workforce Housing Innovation Program (CWHIP), a program which incents public-private partnerships and the use of joint resources to provide affordable rental and single-family housing opportunities, in high-cost counties, to persons with medium incomes.
- Providing CWHIP grant eligibility.
- Authorizing special districts to provide housing assistance to their employees.
- Providing guidance for the assessment of just valuation of affordable housing when a cap rate is used.
- Providing a property exemption for affordable housing property owned by a nonprofit entity.
- Providing guidance for assessment of just valuation of affordable housing.
- Removing the cap on the distribution of documentary stamp revenues to the State Housing Trust Fund, which cap is scheduled to be implemented in FY 2006-2007.
- Lowering the mortgage loan rate for Corporation loans under the State Apartment Incentive Loan Program when the project targets certain populations.
- Providing authority for school boards to provide affordable housing for teachers and other instructional personnel.

The impacts to state and local governments are indeterminate.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty – The bill increases the options of individuals and certain private organizations in the conduct of their own affairs.

Empower families – The bill increases the opportunities of local governments, governmental entities, and private organizations to support, assist, and encourage families in circumstances occasioning need; and increases family stability, self support, and management.

B. EFFECT OF PROPOSED CHANGES:

This bill creates the Community Workforce Housing Innovation Program (CWHIP), a program which incents public-private partnerships and the use of joint resources to provide affordable rental and single-family housing opportunities, in high-cost counties, to persons with medium incomes.

Florida Housing Finance Corporation (Corporation): The bill establishes the Corporation as the entity responsible for the implementation of this program. Corporation is directed to implement this program by providing financial and regulatory incentives to both the public and private sectors for the purpose of developing and financing innovative rental and home-ownership housing solutions for eligible persons. The bill also directs the Corporation to develop selection criteria for selecting housing innovation projects in certain areas; and to provide incentives for the use of State Housing Initiative Partnership Program (SHIP) funds.[1]

Definitions: The bill directly or indirectly defines several terms as follows:

- "Counties in high-cost areas of the state"[2] is directly defined as "those counties in which the average median purchase price of a single-family home is above the state median purchase price of a single-family home.
- "Areas of critical state concern"[3] is indirectly defined as those areas designated under s. 380.05, F.S., for which the Legislature has declared its intent to provide affordable housing.[4] One of the five designated ACSC areas appears to comply with this indirect definition: Florida Keys ACSC (s. 380.0552, F.S.).
- "Project partnerships"[5] is indirectly defined to include substantial involvement of public sector entities (examples given are: local municipalities, counties, school districts, special districts, and other units of local government) and private sectors entities, "that donate land or other tangible value worth at least 15 percent of the project value."

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[1] See DRAFTING ISSUES OR OTHER COMMENTS for a discussion of two phrases contained in s. 1(3) of the bill that may benefit from amendment.
[2] See bill s. 1(3).
[3] See bill s. 1(3).
[4] Established in Chapter 380.05, Florida Statutes, the Area of Critical State Concern (ACSC) program protects resources and public facilities of major statewide significance. Designated Areas of Critical State Concern are: City of Apalachicola; City of Key West; Green Swamp; Florida Keys (Monroe County); and the Big Cypress Swamp (Miami-Dade, Monroe and Collier counties). In ACSCs, Department of Community Affairs (DCA) staff review all local development projects and may appeal to the Administration Commission any local development orders that are inconsistent with state guidelines. The DCA is also responsible for reviewing and approving amendments to comprehensive plans and land development regulations proposed by local governments within the designated areas.
[5] See bill s. 1(4)(b).

- "Essential services personnel"[6] is indirectly defined to include teachers and educators, police and fire personnel, health care personnel, and other job categories in which the personnel are defined as essential services personnel within the annual local SHIP program.
- "Innovative projects"[7] is indirectly defined to include "new construction or rehabilitation of existing housing, mixed-income housing, or commercial and housing mixed-use elements."

Targets[8]: The bill mandates that the Corporation target the following:

- Counties in high cost areas of the state.
- Project partnerships, as defined in the bill.
- Persons in households with income levels up to 150 percent of the adjusted median income (AMI) in prioritized areas, or a higher AMI in areas of critical state concern.
- Essential services personnel in need of affordable housing; Innovative projects, as defined in the bill.

Supplemental Program[9]: The bill provides that the CWHIP shall supplement and not supplant existing affordable housing programs funded under ch. 420, F.S., relating to housing.

Annual Review and Report[10]: The bill requires the Corporation to conduct an annual review of the success of the CWHIP. Additionally, the bill requires the Corporation to annually review ways to improve public and private sector incentives and barriers to affordable and community workforce housing. The Corporation is required to submit any recommendations for strengthening the program to the Governor, the Speaker of the House of Representatives, and the President of the Senate by January 1 each year. The bill authorizes the Corporation to request assistance in these matters from the DCA or the Affordable Housing Study Commission[11]. The review will include:

- Determination of how the program supports traditional affordable housing programs defined in ch. 420, F.S.
- Determination of whether the program is meeting housing needs of high-cost counties.

Approved Applicant Benefits[12]: Approved applicants are eligible for the following to ensure the financial viability, successful development, and ongoing maintenance of the housing developments:

- Expedited approval of development orders and development permits.
- Reduction of impact fees by 50%, waiver of impact fees, or alternative method of fee payment.
- Increased density up to 16 units per acre or higher, except in coastal high hazard areas.
- Reserved infrastructure capacity in the local comprehensive plan.
- Allowance of additional housing units in residential zoning districts.
- Reduction of open space and set back requirements.
- Allowance of zero-lot-line configurations.
- Reduction of traffic concurrency requirements by up to 25%.
- Priority eligibility for local transportation infrastructure funding by metropolitan planning organizations.

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[6] See bill s. 1(4)(d).
[7] See bill s. 1(4)(e).
[8] See bill s. 1(4).
[9] See bill s. 1(5).
[10] See bill s. 1(6).
[11] The Affordable Housing Study Commission was created in 1986 pursuant to the provisions of s. 420.609, F.S. Each year the Commission makes public policy recommendations to the Governor and Legislature to stimulate community development and revitalization to promote the production, preservation, and maintenance of safe, decent affordable housing for all Floridians.
[12] See bill s. 1(8)(a).

Local government acceptance of these incentives is conditioned upon:

- The applicant's receipt of a letter of support from the local government; or
- Failure of a local government vote to object to the applicant's plan within 60 days after local government's receipt of applicant's plan.

If the local government votes not to accept the project in the county, then the Corporation shall remove the application from its approved funding list.

Program Funding[13]

Grant Eligibility: The bill provides that the Corporation, subject to appropriations, has the authority to provide grants for construction or rehabilitation of rental or single-family community workforce housing, providing that the applicant meet at least one of the following criteria:

- Sets aside at least 80% of the units for eligible persons with a household income not exceeding 150% of AMI.
- Sets aside up to 60% of the units prioritized for essential public service personnel; which projects identify sales and leasing strategies to accomplish this set aside and to sell or lease units to other qualified individuals if essential service personnel are immediately available of qualified.
- Limits rentals to no more than 30% of the maximum household income adjusted to unit size.
- Limits the sales price of a house to the price for which an eligible applicant at 150% of AMI may qualify.

Requests for Proposal (RFP): The bill requires the Corporation to issue a RFP to solicit applications and to develop a funding distribution process. Grants are to be based upon financial need. The priority of grants shall be for high-cost counties with the highest real estate cost burdens for housing, including ACSCs, and counties with the highest average median price of a single-family home. The Corporation is authorized to approve a project that does not require funding.

Application Criteria: Eligible applications shall:

- Demonstrate a public-private partnership of at least one local government or special district and one private partner.
- Demonstrate how the regulatory incentives will be used, and include any letters of support from local government partner regarding the regulatory incentives.
- Demonstrate that the applicant possesses title to, or "firm control" of, land; and availability of required infrastructure.
- Provides supporting research or facts of rental or home ownership workforce housing demand and need.
- Have at least 15%, evidenced by a letter of commitment, of the total development cost provided by grants, donations of land, or contributions from other sources.
- Demonstrate accessibility to employment opportunities or a plan to provide transportation access to such opportunities.
- Demonstrate a marketing and sales plan to ensure residents fit the income requirements and program workforce demands.
- Provide a viable pro forma financial statement for the development.

Review Committee: The bill requires the Corporation to establish a staff review committee and scoring system.

[13] See DRAFTING ISSUES.

Evaluation and Ranking Criteria: The bill requires the Corporation to develop evaluation and ranking criteria that utilize the application criteria listed above and emphasize the following:

- Innovative planning concepts
- Innovative building design.
- Local government participation.
- Public-private partnerships.
- Ability to proceed with construction.
- The feasibility and economic viability of the project
- The applicant's affordable housing development and management experience.
- The ability to meet essential service personnel needs.
- A management plan to attract, serve, and keep eligible workforce tenants and ensure the long-term affordability of the rental or ownership units.
- The quality of project design.[14]

Grant Award and Accountability: The bill requires the Corporation to develop rules and procedures for awarding of, and accounting for, grants.[15]

Default: If a grantee defaults on the grant, the Corporation may foreclose or take necessary legal action to protect its interests and to recover the amount of the grant principal, accrued interest and fees. Additionally, the Corporation may acquire real or personal property or interest therein, when necessary to protect grant; or to sell, transfer, and convey such property to a buyer without regard to ch. 253 or ch. 270, F.S. (both relating to state lands).[16]

Down Payment Assistance Program: The bill requires the Corporation to develop and implement a down payment assistance program to meet the needs of eligible individuals to purchase workforce housing. Additionally, Corporation is to encourage local governments to meet the same needs through their State Housing Initiatives Partnership plans (s. 420.9075, F.S.).[17]

Conversion of Existing Multifamily Rental to Ownership: The bill requires the Corporation to develop rules and guidelines for the conversion of existing affordable multifamily rental apartments to affordable home ownership units within the target areas. Project eligibility requires are:

- Being in operation and compliance with the Corporation's rules for at least 5 years.
- Demonstrating the guarantee of a term of affordability for home ownership in the deed restrictions or financing restrictions equal to the term of affordability provided under the rental agreement.
- Demonstrating an affordable home ownership purchase price, approved by the Corporation, based on the average median purchase price of a home in the county for persons whose incomes do not exceed 150% of the county area median income (AMI).
- Provide current apartment renters the first opportunity to purchase converted units.

The Corporation may approve only 15% of available affordable rental projects as eligible for conversion in any high-cost county in any single year. Priority in the Corporation's annual funding cycle must be given to replacing rental unit stock converted to ownership.[18]

Local Public Input: The Corporation shall require, and develop criteria for obtaining and documenting, public input.[19]

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[14] See bill s. 1(5).
[15] See bill s. 1(6).
[16] See bill s. 1(7).
[17] See bill s. 1(8).
[18] See bill s. 1(9).
[19] See bill s. 1(10).

Special Districts – Authority to Provide Housing and Housing Assistance to Employees

The bill provides authority for independent special districts, created for the purpose of providing urban infrastructure of services, to provide housing and housing assistance for its employees.[20]

Low-Income Housing Tax Credit

The bill provides guidance for the assessment of just valuation of affordable housing when a cap rate is used.[21]

Nonprofit Entity Ownership and Affordable Housing Property Exemption

The bill provides a property exemption for affordable housing property owned by a nonprofit entity.[22]

Just Valuation of Affordable Housing Properties

The bill provides guidance for assessment of just valuation of affordable housing. Certain properties used by persons with income limits defined as low, moderate, and very low, shall be assessed according to the actual income from rent-restricted units, and the income shall be used.[23]

Cap on State Housing Trust Fund

The bill removes the cap on distribution of documentary stamp tax revenues to the State Housing Trust Fund, which cap is set to take effect on July 1, 2006.[24]

Corporation Mortgage Rates

The bill lowers the mortgage loan rate for Corporation loans under the State Apartment Incentive Loan Program when the project targets the populations addressed in this bill.[25]

School Boards

The bill authorizes school boards to provide affordable housing for teachers and other instructional personnel.[26]

Background

The state has committed significant resources over the last decade to addressing the severe housing problems facing very low and low income residents of this state. Florida Housing Finance Corporation's programs are funded in part with revenues generated by the documentary stamp tax, which are most often coupled with federal funding. These "affordable housing" programs have traditionally targeted families making 60%or less in the rental programs, and those making 80% or less of AMI in the home ownership programs.

Multifamily rental projects are funded by Florida Housing through the State Apartment Incentive Loan (SAIL) gap loan program, the Multifamily Mortgage Revenue Bond (MMRB) program, which provides funding by issuing revenue bonds, and through allocation of federal Low Income Housing Tax Credits

[20] See ss. bill 3 and 4.
[21] See bill s. 5.
[22] See bill s. 6.
[23] See bill s. 7.
[24] See bill s. 8.
[25] See bill s. 9.
[26] See bill s. 10.

(LIHTC), which provides an equity infusion to multifamily affordable housing projects. The multifamily rental programs typically target those making 60% or less of the area median income (AMI). Home ownership programs consist of down payment assistance, funded by doc stamp funds and federal funds, along with mortgage loans funded by federal funds and the Single Family Mortgage Revenue Bond (SFMRB) program. Also, Florida Housing allocates documentary stamp funds to local governments through the State Housing Initiatives Partnership (SHIP). The large majority of SHIP funds are directed by statute toward home ownership activities, generally serving those with incomes up to 120% AMI.

Federal housing programs, especially those administered by HUD, typically serve those with the lowest incomes. In recent years, budgets for many of these programs have been cut, putting increasing pressure on state and local governments to provide for persons at the lowest income levels. In the current market, the need for affordable housing has outstripped the production capacity of the existing federal, state, and local affordable housing programs.

Due to dramatic increases in housing costs coupled with modest rises in incomes, many low income and moderate income Florida families can no longer afford safe, decent and affordable rental and single family housing,

In addition to the needs of the very low and low income families noted above, recent steep increases in real estate prices have also effectively priced moderate income families out of the market. Florida is experiencing a critical shortage of housing for individuals who are employed in essential service occupations, such as teachers, police, hospital workers, and others who do not qualify for existing affordable housing programs. As a result, many communities are finding it increasingly difficult to recruit, employ, and retain personnel necessary to provide essential public services to Florida's communities.

The need for "workforce housing" to meet existing and future housing needs for working families whose incomes, from 80% to 150% AMI typically make them ineligible for existing housing programs, has recently become increasingly evident.

C. SECTION DIRECTORY:

Section 1 - Creates law creating the Community Workforce Housing Innovation Program.

Section 2 - Creates law to provide for program funding.

Section 3:- Creates s. 189.4155(6), F.S., authorizing independent districts to provide housing and housing assistance for its employed personnel.

Section 4 – Creates s. 191.006(19), F.S., expanding the powers which a special district may exercise by majority vote to include the power to provide housing or housing assistance for its employed personnel.

Section 5 – Creates s. 193.017(5), F.S., relating to the use of a cap rate for assessing just valuation of affordable housing properties.

Section 6 – Amends s. 196.1978, F.S., relating to the affordable housing property exemption from ad valorem taxation.

Section 7 – Creates s. 196.1980, F.S., providing for the use of actual rental income as the basis for assessing just valuation of certain affordable housing properties.

Section 8 – Amends ss. 201.15(9) and (10), F.S., effective July 1, 2007, removing the caps related to distribution of certain tax revenues for the State Housing Trust Fund.

Section 9 – Amends s. 420.507(22)(a), F.S., lowering the interest rate paid for certain loans from the Florida Housing Finance Corporation by sponsors of projects targeted at certain

Section 10 – Amends s. 1001.42(9)(b), F.S., authorizing school boards to provide affordable housing for teachers and other instructional personnel independently or in conjunction with certain other agencies.

Section 11 - Provides an effective date of July 1, 2006, or as otherwise provided in the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Indeterminate. The state may be benefited by the provision of essential workforce housing in support of commerce which may result in increased state revenues.

2. Expenditures:

   Indeterminate. The level of funding to support the CWHIP is not established in this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   Indeterminate. Local governments may be benefited by the provision of essential workforce housing in support of commerce which may result in increased state revenues.

2. Expenditures:

   Indeterminate. The bill provides encouragement and opportunity for local government to support the affordable housing efforts advanced by this bill, but does not require any particular level of financial commitment.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a beneficial impact on the private sector in the following manner:

- Provides incentives for the private sector development and provision of affordable housing.
- Provides housing opportunities for certain types of employees, thus supporting some private and public employers by authorizing means by which they may assist employees to secure affordable housing.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

There do not appear to be any other constitutional issues.

B. RULE-MAKING AUTHORITY:

The bill does contain rulemaking authority as follows:

- For the development of certain selection criteria [s. 1(3)].
- For awarding and accountability of grants [s. 1(6)].
- For providing conversion of existing affordable multifamily rental apartments to affordable home ownership units within the target areas [s. 1(9)].

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 1(3) of the bill - Requires the Corporation to develop certain selection criteria either by rule or by requests for proposals. The bill does not make clear how such criteria would be developed through an RFP process; and may benefit from some further clarification. Perhaps the language should read: "The corporation shall develop selection criteria by rule for requests for proposal to..."

Section 1(3) of the bill - Contains a phrase "critical concerns areas of the state" (lines 63-64) which appears to relate to "areas of critical state concern." The former has no definition, the latter is an area designated pursuant to s. 380.05, F.S. The phrase should be changed to "an area of critical state concern."

Section 1(7) of the bill - The term "community workforce housing" (lines 114 and 137) is undefined.

Section 2 of the bill – The section is named "Program funding." The section more specifically addresses program funding eligibility and should be renamed for clarity.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

A bill to be entitled

An act relating to affordable housing; creating the Community Workforce Housing Innovation Program; providing the Florida Housing Finance Corporation with certain powers and responsibilities relating to the program; requiring the program to target certain entities; requiring the program to supplement existing affordable housing programs; providing incentives for program applicants; providing for funding and conditions for funding; providing requirements for applicants; requiring the corporation to establish a review committee for the application process; requiring the committee to establish certain criteria for applicants; requiring the corporation to develop certain guidelines and rules; authorizing the corporation to foreclose on certain mortgages and security interests or to commence certain legal actions; requiring the corporation to create a down payment assistance program; amending s. 189.4155, F.S.; authorizing special districts to provide housing and housing assistance for their employed personnel; amending s. 191.006, F.S.; authorizing an independent special fire control district to provide housing or housing assistance for its employed personnel; amending s. 193.017, F.S.; providing requirements for using a cap rate for assessing certain affordable housing properties; amending s. 196.1978, F.S.; specifying what constitutes a nonprofit entity for purposes of affordable housing property tax exemption; creating s. 196.1980, F.S.; providing that the actual

rental income from certain rent-restricted units be recognized by property appraisers as the rents for assessment purposes; amending s. 201.15, F.S.; revising the distributions of portions of the excise tax on documents to the State Housing Trust Fund and the Local Government Housing Trust Fund for purposes of preserving the rights of holders of affordable housing guarantees; amending s. 420.507, F.S.; revising the rate of interest at which certain mortgage loans must be made available; amending s. 1001.42, F.S.; authorizing district school boards to provide affordable housing for certain teachers and other instructional personnel; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Community Workforce Housing Innovation Program.--

(1) The Community Workforce Housing Innovation Program is created for the purpose of providing regulatory incentives and state and local funds to promote local public-private partnerships and leverage government and private resources to provide affordable rental and single-family housing for persons with medium incomes in high-cost counties in this state.

(2) The Florida Housing Finance Corporation shall be responsible for implementing and creating an incentive program for the Community Workforce Housing Innovation Program by providing financial and regulatory incentives to the public and

private sectors to develop and finance innovative rental and home-ownership housing solutions to meet the needs of eligible Floridians.

(3) The corporation shall develop selection criteria by rule or by requests for proposal to provide funding for multifamily rental or single-family community workforce housing innovation projects in targeted high-cost counties or critical-concern areas of the state. The corporation shall provide incentives for local governments in high-cost counties to use local affordable housing State Housing Initiatives Partnership Program funds under s. 420.9072, Florida Statutes, for meeting the affordable housing needs of persons eligible under this program.

(4) The Community Workforce Housing Innovation Program projects shall target:

(a) Counties in high-cost areas of the state, which are defined as those counties in which the average median purchase price of a single-family home is above the state median purchase price of a single-family home, and areas of critical state concern designated under s. 380.05, Florida Statutes, for which the Legislature has declared its intent to provide affordable housing.

(b) Project partnerships that include substantial involvement of public sector entities, such as local municipalities, counties, school districts, special districts, and other units of local government, and private sector entities that donate land or other tangible value worth at least 15 percent of the project value.

(c) Persons in households with income levels of up to 150 percent of the adjusted median income in prioritized areas included in this subsection or a higher adjusted median income percentage in areas of critical state concern.

(d) Persons in need of affordable housing who are employed in areas in which they are considered essential services personnel, such as teachers and educators, police and fire personnel, and health care personnel, and in other job categories in which the personnel are defined as essential services personnel within the annual local State Housing Initiatives Partnership Program under s. 420.9072, Florida Statutes.

(e) Innovative projects that include new construction or rehabilitation of existing housing, mixed-income housing, or commercial and housing mixed-use elements.

(5) The Community Workforce Housing Innovation Program shall supplement and not supplant the existing affordable housing programs funded under chapter 420, Florida Statutes.

(6) On an annual basis, the corporation shall review the success of the Community Workforce Housing Innovation Program to determine how the program supports traditional affordable housing programs as defined in chapter 420, Florida Statutes, and to ascertain whether the program is meeting the housing needs of high-cost counties. The corporation shall submit any recommendations for strengthening the program to the Governor, the Speaker of the House of Representatives, and the President of the Senate by January 1 of each year.

(7) On an annual basis, the corporation shall review ways to improve public and private sector incentives and barriers to affordable and community workforce housing and make any recommendations necessary to improve these incentives in a report to the Governor, the Speaker of the House of Representatives, and the President of the Senate by January 1 of each year. The corporation may request the assistance of the Department of Community Affairs or the Affordable Housing Study Commission in these efforts.

(8)(a) Applicants whose projects are approved or funded by the Community Workforce Housing Innovation Program as Community Workforce Housing Innovation Program projects shall be eligible for the following workforce housing incentives to ensure the financial viability, successful development, and ongoing maintenance of these housing developments:

1. The processing of approvals of development orders or development permits, as defined in s. 163.3164(7) and (8), Florida Statutes, for affordable housing projects shall be expedited to a greater degree than other projects.

2. Impact fees shall be reduced by 50 percent or may be waived entirely by the local governments, or applicants shall be provided with an alternative method of fee payment.

3. Increased density levels of up to 16 units or higher density per acre shall be allowed, except in coastal high-hazard areas, if approved by the local government, for community workforce housing.

4. The infrastructure capacity in the local comprehensive plan for affordable housing shall be reserved for these communities.

5. Additional affordable residential units in residential zoning districts shall be allowed.

6. Open space and setback requirements for affordable housing shall be reduced by 50 percent.

7. Zero-lot-line configurations shall be allowed.

8. Traffic concurrency requirements shall be modified or reduced by up to 25 percent.

9. Local transportation infrastructure funding shall have priority eligibility from metropolitan planning organizations.

(b) The regulatory incentives for approved Community Workforce Housing Innovation Program projects shall be considered acceptable by the respective local government maintaining jurisdiction over the site of the project, if:

1. The applicant receives a letter of support from the local government for the project application submitted to the corporation; or

2. Within 60 days after receipt of the applicant's plan by the local government, no formal vote is taken by that body to object to the project.

However, if that local government entity votes not to accept the Community Workforce Housing Innovation Program project in its county, the corporation shall remove the application from the project approval list.

Section 2. Program funding.--

(1) Subject to the availability of funds appropriated by the Legislature to fund the Community Workforce Housing Innovation Program, the Florida Housing Finance Corporation shall have the authority to provide Community Workforce Housing Innovation Program grants to an applicant for construction or rehabilitation of rental or single-family community workforce housing, provided the sponsor of such appropriation:

(a) Sets aside at least 80 percent of the units for eligible persons whose household income does not exceed 150 percent of the adjusted local median income;

(b) Sets aside up to 60 percent of the units as prioritized for households whose family members are employed in areas deemed essential public service, such as education, health care, and other areas defined by the local community in its State Housing Initiatives Partnership Program plan. Such projects shall identify sales and leasing strategies to accomplish this set-aside priority for essential services personnel as well as alternative strategies to sell or lease units to other qualified individuals if essential services personnel are not immediately available or qualified for the units;

(c) For rental projects, limits rents to no more than 30 percent of the maximum household income adjusted to unit size; or

(d) For home ownership, limits the sales price to the price for which an eligible applicant at 150 percent of the average median income may qualify.

(2) The corporation shall issue a request for proposals to solicit applications for program approval and grants offered under this section and shall establish a funding process to distribute funds under this section. The corporation may approve a project under this program that does not require grant funding. Grant funding shall be based on demonstrated financial need of the project. The corporation shall prioritize projects in those high-cost counties with the highest real estate cost burdens for housing, including those counties with designated areas of critical state concern and those counties with the highest average median price of single-family homes.

(3) All eligible applications shall:

(a) Demonstrate that the program applicant consists of a public-private partnership of at least one local government or special district public entity and one private not-for-profit or for-profit development partner.

(b) Demonstrate how the applicant will use the regulatory incentives outlined in subsection (8) of section 1 and include, if available, any letters of support from the local government partner for the incentives.

(c) Demonstrate that the applicant possesses title to or firm site control of land and evidences availability of required infrastructure.

(d) Provide any research or facts available supporting the demand and need for rental or home ownership workforce housing for qualified workforce residents in the county in which the project is proposed.

(e) Have grants, donations of land, or contributions from other sources collectively totaling at least 15 percent of the total development cost. Such grants, donations of land, or contributions must only be evidenced by a letter of commitment at the time of application.

(f) Demonstrate accessibility to commercial businesses, services, and employment opportunities needed to serve the needs of the residents or include a viable plan to provide transportation access to those commercial businesses, services, and jobs.

(g) Demonstrate a marketing and sales plan to ensure that residents fit the income requirements and workforce employment demand for essential services.

(h) Provide a viable pro forma financial statement for the development costs and revenues for the project.

(4) The corporation shall establish a review committee composed of staff of the corporation and shall establish a scoring system for evaluation and competitive ranking of applications submitted to the program.

(5) The corporation shall develop evaluation and ranking criteria that use the eligibility criteria of subsection (3) and emphasize the following: innovative planning concepts, innovative building design, local government participation, public-private partnerships, the ability to proceed with construction, the feasibility and economic viability of the project, the applicant's affordable housing development and management experience, the ability to meet essential service personnel needs, a management plan to attract, serve, and keep

eligible workforce tenants and ensure the long-term affordability of the rental or ownership units, and the quality of project design.

(6) The corporation shall develop rules and procedures for the awarding and accountability of Community Workforce Housing Innovation Program grants to selected applicants. Grants may be used with other corporation and private-sector resources. The proceeds of all grants shall be used for new construction or substantial rehabilitation that creates affordable, safe, and sanitary rental or ownership workforce housing units. The corporation shall expedite the review, evaluation, and awarding of program grants.

(7) If a default on a grant occurs, the corporation may foreclose on any mortgage or security interest or commence any legal action to protect the interest of the corporation and recover the amount of the grant principal, accrued interest, and fees. The corporation may acquire real or personal property or any interest in such property when that acquisition is necessary or appropriate to protect any grant or sell, transfer, and convey any such property to a buyer without regard to the provisions of chapters 253 and 270, Florida Statutes.

(8) The corporation shall develop and implement a Community Workforce Housing Innovation Program down payment assistance program with available funds consistent with all the requisite financial guidelines to meet the needs of eligible individuals to purchase workforce housing. The corporation shall encourage local governments to accomplish the same goals through

their housing assistance plans provided in s. 420.9075, Florida Statutes.

(9)(a) The corporation shall develop guidelines and rules for providing for the conversion of existing affordable multifamily rental apartments to affordable home ownership units for projects in high-cost counties and counties with areas designated as areas of critical state concern. Eligible conversion projects must:

1. Have been in operation and in compliance with the corporation's rules for at least 5 years.

2. Demonstrate the guarantee of a term of affordability for home ownership in the deed restrictions or financing restrictions equal to the term of affordability provided under the rental agreement.

3. Demonstrate an affordable home ownership purchase price approved by the corporation based on the average median purchase price of a home in the counties for persons whose incomes do not exceed 150 percent of the average median income in the county.

4. Provide current renters of apartments the first opportunity to purchase converted home ownership units.

(b) The corporation may approve only 15 percent of the available affordable rental projects as eligible for conversion to affordable home ownership in any eligible high-cost county in any one year. Priority must be given to replacing the stock of rental units converted to affordable home ownership within these counties with new rental units in the corporation's annual funding cycle.

(10) The corporation shall require all program applicants to obtain and document local public input on the proposed project. The corporation shall establish criteria for what local public input the applicants shall be required to obtain.

Section 3. Subsection (6) is added to section 189.4155, Florida Statutes, to read:

189.4155 Activities of special districts; local government comprehensive planning.--

(6) Any independent district created pursuant to special act or general law, including, but not limited to, chapters 189, 190, 191, and 298, for the purpose of providing urban infrastructure of services, is authorized to provide housing and housing assistance for its employed personnel.

Section 4. Subsection (19) is added to section 191.006, Florida Statutes, to read:

191.006 General powers.--The district shall have, and the board may exercise by majority vote, the following powers:

(19) To provide housing or housing assistance for its employed personnel.

Section 5. Subsection (5) is added to section 193.017, Florida Statutes, to read:

193.017 Low-income housing tax credit.--Property used for affordable housing which has received a low-income housing tax credit from the Florida Housing Finance Corporation, as authorized by s. 420.5099, shall be assessed under s. 193.011 and, consistent with s. 420.5099(5) and (6), pursuant to this section.

(5) If a cap rate is used to assess just valuation for the property, the appraiser shall use a cap rate calculated annually for affordable housing properties authorized by the Florida Housing Finance Corporation and approved by the Department of Revenue.

Section 6. Section 196.1978, Florida Statutes, is amended to read:

196.1978 Affordable housing property exemption.--Property used to provide affordable housing serving eligible persons as defined by s. 159.603(7) and persons meeting income limits specified in s. 420.0004(9), (10), and (14), which property is owned entirely by a nonprofit entity which is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and which complies with Rev. Proc. 96-32, 1996-1 C.B. 717, shall be considered property owned by an exempt entity and used for a charitable purpose, and those portions of the affordable housing property which provide housing to individuals with incomes as defined in s. 420.0004(9) and (14) shall be exempt from ad valorem taxation to the extent authorized in s. 196.196. For the purposes of this section, ownership by a nonprofit entity is classified as ownership by a corporation not for profit, a Florida limited partnership the sole general partner of which is a corporation not for profit, or a Florida limited liability corporation the sole member of which is a corporation not for profit. All property identified in this section shall comply with the criteria for determination of exempt status to be applied by property appraisers on an annual basis as defined in s. 196.195. The Legislature intends that any property owned by a

limited liability company which is disregarded as an entity for federal income tax purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) shall be treated as owned by its sole member.

Section 7. Section 196.1980, Florida Statutes, is created to read:

196.1980 Affordable housing property exemption.--For the purpose of assessing just valuation of affordable housing properties used by persons with income limits defined as low, moderate, and very low, as specified in s. 420.0004(9), (10), and (14), the actual rental income from rent-restricted units in such a property shall be recognized by the property appraiser for assessment purposes, and an income approach shall be used for assessment of the rents for the following properties:

(1) Property that is funded by the United States Department of Housing and Urban Development under s. 8 of the United States Housing Act of 1937, that is used to provide affordable housing serving eligible persons as defined by s. 159.603(7), and elderly and very-low-income persons as defined by s. 420.0004(7) and (14), and that has undergone financial restructuring as provided in s. 501, Title V, Subtitle A of the Multifamily Assisted Housing Reform and Affordability Act of 1997.

(2) Multifamily, farmworker, or elderly rental properties that are funded by the Florida Housing Finance Corporation under ss. 420.5087 and 420.5089 and the State Housing Incentives Partnership Program under ss. 420.9072 and 420.9075.

Section 8. Effective July 1, 2007, subsections (9) and (10) of section 201.15, Florida Statutes, as amended by chapter 2005-92, Laws of Florida, are amended to read:

201.15 Distribution of taxes collected.--All taxes collected under this chapter shall be distributed as follows and shall be subject to the service charge imposed in s. 215.20(1), except that such service charge shall not be levied against any portion of taxes pledged to debt service on bonds to the extent that the amount of the service charge is required to pay any amounts relating to the bonds:

(9) ~~The lesser of~~ Seven and fifty-three hundredths percent of the remaining taxes collected under this chapter ~~or $107 million in each fiscal year~~ shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:

(a) Half of that amount shall be used for the purposes for which the State Housing Trust Fund was created and exists by law.

(b) Half of that amount shall be paid into the State Treasury to the credit of the Local Government Housing Trust Fund and shall be used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

(10) ~~The lesser of~~ Eight and sixty-six hundredths percent of the remaining taxes collected under this chapter ~~or $136 million in each fiscal year~~ shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:

(a) Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and be expended by the Department of Community Affairs and by the Florida Housing Finance Corporation for the purposes for which the State Housing Trust Fund was created and exists by law.

(b) Eighty-seven and one-half percent of that amount shall be distributed to the Local Government Housing Trust Fund and shall be used for the purposes for which the Local Government Housing Trust Fund was created and exists by law. Funds from this category may also be used to provide for state and local services to assist the homeless.

Section 9. Paragraph (a) of subsection (22) of section 420.507, Florida Statutes, is amended to read:

420.507 Powers of the corporation.--The corporation shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers which are in addition to all other powers granted by other provisions of this part:

(22) To develop and administer the State Apartment Incentive Loan Program. In developing and administering that program, the corporation may:

(a) Make first, second, and other subordinated mortgage loans including variable or fixed rate loans subject to contingent interest for all State Apartment Incentive Loans provided for in this chapter based upon available cash flow of the projects. The corporation shall make loans exceeding 25 percent of project cost available only to nonprofit organizations and public bodies which are able to secure grants,

donations of land, or contributions from other sources and to projects meeting the criteria of subparagraph 1. Mortgage loans shall be made available at the following rates of interest:

1. Zero to 3 percent interest for sponsors of projects that maintain an 80 percent occupancy of residents qualifying as farmworkers as defined in s. 420.503(18), commercial fishing workers as defined in s. 420.503(5), or the homeless as defined in s. 420.621(4) over the life of the loan.

2. One ~~Three to 9~~ percent interest for sponsors of projects targeted at populations other than farmworkers, commercial fishing workers, and the homeless.

Section 10. Paragraph (b) of subsection (9) of section 1001.42, Florida Statutes, is amended to read:

1001.42 Powers and duties of district school board.--The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

(9) SCHOOL PLANT.--Approve plans for locating, planning, constructing, sanitating, insuring, maintaining, protecting, and condemning school property as prescribed in chapter 1013 and as follows:

(b) Sites, buildings, and equipment.--

1. Select and purchase school sites, playgrounds, and recreational areas located at centers at which schools are to be constructed, of adequate size to meet the needs of projected students to be accommodated.

2. Approve the proposed purchase of any site, playground, or recreational area for which district funds are to be used.

3. Expand existing sites.

4. Rent buildings when necessary.

5. Enter into leases or lease-purchase arrangements, in accordance with the requirements and conditions provided in s. 1013.15(2), with private individuals or corporations for the rental of necessary grounds and educational facilities for school purposes or of educational facilities to be erected for school purposes. Current or other funds authorized by law may be used to make payments under a lease-purchase agreement. Notwithstanding any other statutes, if the rental is to be paid from funds received from ad valorem taxation and the agreement is for a period greater than 12 months, an approving referendum must be held. The provisions of such contracts, including building plans, shall be subject to approval by the Department of Education, and no such contract shall be entered into without such approval. As used in this section, "educational facilities" means the buildings and equipment that are built, installed, or established to serve educational purposes and that may lawfully be used. The State Board of Education may adopt such rules as are necessary to implement these provisions.

6. Provide for the proper supervision of construction.

7. Make or contract for additions, alterations, and repairs on buildings and other school properties.

8. Ensure that all plans and specifications for buildings provide adequately for the safety and well-being of students, as well as for economy of construction.

9. Provide affordable housing for teachers and other instructional personnel independently or in conjunction with other agencies as described in s. 1001.43(5).

Section 11. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **1363**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Growth Management Committee

Representative(s) M. Davis offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 125.379, Florida Statutes, is created to read:

125.379 Disposition of county property for affordable housing.--

(1) By January 1, 2007, and every 3 years thereafter, each county shall prepare an inventory list of all real property within its jurisdiction to which the county holds fee simple title. The inventory list must include the address and legal description of each real property and specify whether the property is vacant or improved. County planning staff shall review the inventory list and identify each property that is appropriate for use as affordable housing. The time for preparing the inventory list and its review by county planning staff may not exceed 6 months. The properties identified as appropriate for use as affordable housing may be offered for sale and the proceeds used to purchase land for the development of affordable housing or donated to the Local Government Housing

Trust Fund, sold with a restriction that requires any development on the property to include a specified percentage of permanently affordable housing, or donated to a nonprofit housing organization for the construction of permanent affordable housing.

(2) After completing an inventory list, the board of county commissioners shall hold at least two public hearings to discuss the inventory list and staff's recommendation concerning which properties are appropriate for use as affordable housing. The board shall comply with the provisions of s. 125.66(4)b)1. regarding the advertisement of the public hearings and shall hold the first hearing no later than 30 days after completing the inventory list. The board shall approve the inventory list through the adoption of a resolution at the second hearing no later than 6 months after completing the inventory list.

(3) After the inventory list has been approved by resolution, the board of county commissioners shall immediately make available any real property that has been identified in the inventory list as appropriate for use as affordable housing. The county shall make the surplus real property available to:

(a) A private developer if the purchase price paid by the developer is not less than the appraised value of the property based on its highest and best use and the real property is sold with deed restriction s that require a specified percentage of any project developed on the real property to provide affordable housing for low-income and moderate-income persons, with a minimum of 10 percent of the units in the project available for low-income persons and another 10 percent of the units for moderate-income persons for a total minimum of 20 percent, or, if providing rental housing or a combination of rental housing

and homeownership, an additional 5 percent of the units for very-low-income persons for a total minimum of 25 percent;

(b) A private developer without any requirement that a percentage of the units built on the real property be affordable if the purchase price paid by the developer is not less than the appraised value of the property based on its highest and best use, in which case the county must use the funds received from the developer to acquire real property on which affordable housing will be built or donate the funds to the Local Government Housing Trust Fund for the purpose of implementing the programs described in ss. 420.907-420.9079; or

(c) A nonprofit housing organization, such as a community land trust, housing authority, or community redevelopment agency to be used for the production and preservation of permanently affordable housing.

(4) The deed restrictions required under paragraph (3) (a) for an affordable housing unit must also prohibit the unit from being sold at a price that exceeds the threshold for housing that is affordable for low-income or moderate - income persons or to a buyer who is not eligible due to his or her income under chapter 420. The deed restrictions may allow the affordable housing units created under paragraph (3) (a) to be rented to very-low-income, low-income, or moderate-income persons.

(5) For purposes of this section, the terms "affordable," "low-income persons," "moderate-income persons," and "very-low-income person: have the same meaning as in s. 420.0004.

Section 2. Paragraph (c) of subsection (1) of section 163.3187, Florida Statutes, is amended to read:

163.3187 Amendment of adopted comprehensive plan.--

(1) Amendments to comprehensive plans adopted pursuant to this part may be made not more than two times during any calendar year, except:

(c) Any local government comprehensive plan amendments directly related to proposed small scale development activities may be approved without regard to statutory limits on the frequency of consideration of amendments to the local comprehensive plan. A small scale development amendment may be adopted only under the following conditions:

1. The proposed amendment involves a use of 10 acres or fewer and:

a. The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government shall not exceed:

(I) A maximum of 120 acres in a local government that contains areas specifically designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e); however, amendments under this paragraph may be applied to no more than 60 acres annually of property outside the designated areas listed in this sub-sub-subparagraph. Amendments adopted pursuant to paragraph (k) shall not be counted toward the acreage limitations for small scale amendments under this paragraph.

(II) A maximum of 80 acres in a local government that does not contain any of the designated areas set forth in sub-sub-subparagraph (I).

(III) A maximum of 120 acres in a county established pursuant to s. 9, Art. VIII of the State Constitution.

b. The proposed amendment does not involve the same property granted a change within the prior 12 months.

c. The proposed amendment does not involve the same owner's property within 200 feet of property granted a change within the prior 12 months.

d. The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity.

e. The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1). Such amendment is not subject to the density limitations of sub-subparagraph f., and shall be reviewed by the state land planning agency for consistency with the principles for guiding development applicable to the area of critical state concern where the amendment is located and shall not become effective until a final order is issued under s. 380.05(6).

f. If the proposed amendment involves a residential land use, the residential land use has a density of 10 units or less per acre or the proposed future land use category allows a maximum residential density of the same or less than the maximum residential density allowable under the existing future land use category, except that this limitation does not apply to small

scale amendments involving the construction of affordable housing units meeting the criteria of s. 420.0004(3) on property which will be the subject of a land use restriction agreement ~~or extended use agreement recorded in conjunction with the issuance of tax exempt bond financing or an allocation of federal tax credits issued through the Florida Housing Finance Corporation or a local housing finance authority authorized by the Division of Bond Finance of the State Board of Administration~~, or small scale amendments described in sub-sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e).

2.a. A local government that proposes to consider a plan amendment pursuant to this paragraph is not required to comply with the procedures and public notice requirements of s. 163.3184(15)(c) for such plan amendments if the local government complies with the provisions in s. 125.66(4)(a) for a county or in s. 166.041(3)(c) for a municipality. If a request for a plan amendment under this paragraph is initiated by other than the local government, public notice is required.

b. The local government shall send copies of the notice and amendment to the state land planning agency, the regional planning council, and any other person or entity requesting a copy. This information shall also include a statement identifying any property subject to the amendment that is located within a coastal high-hazard area as identified in the local comprehensive plan.

3. Small scale development amendments adopted pursuant to this paragraph require only one public hearing before the governing board, which shall be an adoption hearing as described in s. 163.3184(7), and are not subject to the requirements of s. 163.3184(3)-(6) unless the local government elects to have them subject to those requirements.

4. If the small scale development amendment involves a site within an area that is designated by the Governor as a rural area of critical economic concern under s. 288.0656(7) for the duration of such designation, the 10-acre limit listed in subparagraph 1. shall be increased by 100 percent to 20 acres. The local government approving the small scale plan amendment shall certify to the Office of Tourism, Trade, and Economic Development that the plan amendment furthers the economic objectives set forth in the executive order issued under s. 288.0656(7), and the property subject to the plan amendment shall undergo public review to ensure that all concurrency requirements and federal, state, and local environmental permit requirements are met.

Section 3. Section 166.0451, Florida Statutes, is created to read:

166.0451 Disposition of municipal property for affordable housing.--

(1) By January 1, 2007, and every 3 year thereafter, each municipality shall prepare an inventory list of all real property within its jurisdiction to which the municipality holds fee simple title. The inventory list must include the address and legal description of each property and specify whether the property is vacant or improved. Municipal planning staff shall review the inventory list and identify each real property that is appropriate for use as affordable housing. The time for

preparing the inventory list and its review by municipal planning staff may not exceed 6 months. The properties identified as appropriate for use as affordable housing may be offered for sale and the proceeds used to purchase land for the development of affordable housing or donated to the Local Government Housing Trust Fund, sold with a restriction that requires any development on the property to include a specified percentage of permanently affordable housing, or donated to a nonprofit housing organization for the construction of permanent affordable housing.

(2) Upon completing an inventory list in compliance with this section, the governing body of the municipality shall hold at least two public hearings to discuss the inventory list and the recommendation of the staff concerning which properties are appropriate for use as affordable housing. The governing body shall comply with s. 166.041 (3) (c) 2a. regarding the advertisement of the public hearings and shall hold the first hearing no later than 30 days after completing the inventory list. The governing body shall approve the inventory list through the adoption f a resolution at the second hearing no later than 6 months after completing the inventory list.

(3) After the inventory list has been approved by resolution, the governing body of the municipality shall immediately make available any real property that has been identified in the inventory list as appropriate for use as affordable housing. The municipality shall make the surplus real property available to:

(a) A private developer if the purchase price paid by the developer is not less than the appraised value of the property based on its highest and best use and the real property is sold with deed restrictions that require a specified percentage of

any project developed on the real property to provide affordable housing for low-income and moderate-income persons, with a minimum of 10 percent of the units in the project available for low-income persons and another 10 percent of the units for moderate-income persons for a total minimum of 20 percent, or, if providing rental housing or a combination of rental housing and homeownership, an additional 5 percent of the units for very-low-income persons for a total minimum of 25 percent;

(b) A private developer without any requirement that a percentage of the units built on the real property be affordable if the purchase price paid by the developer is not less than the appraised value of the property based on its highest and best use, in which case the municipality must use the funds received from the developer to acquire real property on which affordable housing will be built or donate the funds to the Local Government Housing Trust Fund for the purpose of implementing the programs described in ss. 420.907-420.9079; or

(c) A nonprofit housing organization, such as a community land trust, housing authority, or community land trust, housing authority, or community redevelopment agency to be used for the production and preservation of permanently affordable housing.

(4) The deed restrictions required under paragraph (3) (a) for an affordable housing unit must also prohibit the unit from being sold at a price that exceeds the threshold for housing that is affordable for low-income for moderate-income persons or to a buyer who is not eligible due to his or her income under chapter 420. The deed restrictions may allow the affordable housing units created under paragraph (3) (a) to be rented to very-low-income, low-income, or moderate-income persons.

(5) For purposes of this section the terms "affordable," "low-income persons," "moderate-income persons," and "very-low-income persons" have the same meaning as in s. 420.0004.

Section 4. Subsection (6) is added to section 189.4155, Florida Statutes, to read:

189.4155 Activities of special districts; local government comprehensive planning.--

(6) Any independent district created pursuant to special act or general law, including, but not limited to, chapters 189, 190, 191, and 298, for the purpose of providing urban infrastructure of services, is authorized to provide housing and housing assistance for its employed personnel.

Section 5. Subsection (19) is added to section 191.006, Florida Statutes, to read:

191.006 General powers.--The district shall have, and the board may exercise by majority vote, the following powers:

(19) To provide housing or housing assistance for its employed personnel.

Section 6. Subsection (5) is added to section 193.017, Florida Statutes, to read:

193.017 Low-income housing tax credit.--Property used for affordable housing which has received a low-income housing tax credit from the Florida Housing Finance Corporation, as authorized by s. 420.5099, shall be assessed under s. 193.011 and, consistent with s. 420.5099(5) and (6), pursuant to this section.

(5) If a cap rate is used to assess just valuation for the property, the appraiser shall use a cap rate calculated annually for affordable housing properties authorized by the Florida

Housing Finance Corporation and approved by the Department of Revenue.

Section 7. Section 196.1978, Florida Statutes, is amended to read:

196.1978 Affordable housing property exemption.--Property used to provide affordable housing serving eligible persons as defined by s. 159.603(7) and persons meeting income limits specified in s. 420.0004(9), (10), and (14), which property is owned entirely by a nonprofit entity which is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and which complies with Rev. Proc. 96-32, 1996-1 C.B. 717, shall be considered property owned by an exempt entity and used for a charitable purpose, and those portions of the affordable housing property which provide housing to individuals with incomes as defined in s. 420.0004(9) and (14) shall be exempt from ad valorem taxation to the extent authorized in s. 196.196. For the purposes of this section, ownership entirely by a nonprofit entity is classified as ownership by either: (i) a corporation not for profit, or (ii) a Florida limited partnership the sole general partner of which is either a corporation not for profit, or a Florida limited liability company the sole member of which is a corporation not for profit. All property identified in this section shall comply with the criteria for determination of exempt status to be applied by property appraisers on an annual basis as defined in s. 196.195. The Legislature intends that any property owned by a limited liability company which is disregarded as an entity for federal income tax purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) shall be treated as owned by its sole member.

Section 8. Section 196.1980, Florida Statutes, is created to read:

196.1980 Affordable housing property exemption.--For the purpose of assessing just valuation of affordable housing properties serving persons with income limits defined as low, moderate, and very low, as specified in s. 420.0004(9), (10), and (14), the actual rental income from rent-restricted units in such a property shall be recognized by the property appraiser for assessment purposes, and an income approach shall be used for assessment of the rents for the following properties:

(1) property that is funded by the United States Department of Housing and Urban Development under s. 8 of the United States Housing Act of 1937, that is used to provide affordable housing serving eligible persons as defined by s. 159.603(7), and elderly and very-low-income persons as defined by s. 420.0004(7) and (14), and that has undergone financial restructuring as provided in s. 501, Title V, Subtitle A of the Multifamily Assisted Housing Reform and Affordability Act of 1997;

(2) multifamily, farmworker, or elderly rental properties that are funded by the Florida Housing Finance Corporation under ss. 420.5087 and 420.5089 and the State Housing Initiatives Partnership Program under ss. 420.9072 and 420.9075, s. 42 of the Internal Revenue Code; the HOME Investment Partnership Program under the Cranston-Gonzalez National Affordable Housing Act, 42 U.S.C. s.12741 et seq.; or the Federal Home Loan Banks Affordable Housing Program established pursuant to the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law 101-73; or

(3) multi-family residential rental properties of ten (10) or more units that are certified by the local housing agency or municipal government as providing affordable housing serving

eligible persons as defined by s. 159.603(7), and elderly and very-low-income persons as defined by s. 420.0004(7) and (14).

Section 9. Effective July 1, 2007, subsections (9) and (10) of section 201.15, Florida Statutes, as amended by chapter 2005-92, Laws of Florida, are amended to read:

201.15 Distribution of taxes collected.--All taxes collected under this chapter shall be distributed as follows and shall be subject to the service charge imposed in s. 215.20(1), except that such service charge shall not be levied against any portion of taxes pledged to debt service on bonds to the extent that the amount of the service charge is required to pay any amounts relating to the bonds:

(9) ~~The lesser of~~ Seven and fifty-three hundredths percent of the remaining taxes collected under this chapter ~~or $107 million in each fiscal year~~ shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:

(a) Half of that amount shall be used for the purposes for which the State Housing Trust Fund was created and exists by law.

(b) Half of that amount shall be paid into the State Treasury to the credit of the Local Government Housing Trust Fund and shall be used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

(10) ~~The lesser of~~ Eight and sixty-six hundredths percent of the remaining taxes collected under this chapter ~~or $136 million in each fiscal year~~ shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:

(a) Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and be expended by

the Department of Community Affairs and by the Florida Housing Finance Corporation for the purposes for which the State Housing Trust Fund was created and exists by law.

(b) Eighty-seven and one-half percent of that amount shall be distributed to the Local Government Housing Trust Fund and shall be used for the purposes for which the Local Government Housing Trust Fund was created and exists by law. Funds from this category may also be used to provide for state and local services to assist the homeless.

Section 10. Paragraph (q) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.--The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.--

(q) Community contribution tax credit for donations.--

1. Authorization.--~~Beginning July 1, 2001,~~ Persons who are registered with the department under s. 212.18 to collect or remit sales or use tax and who make donations to eligible sponsors are eligible for tax credits against their state sales and use tax liabilities as provided in this paragraph:

a. The credit shall be computed as 50 percent of the person's approved annual community contribution.~~;~~

b. The credit shall be granted as a refund against state sales and use taxes reported on returns and remitted in the 12 months preceding the date of application to the department for the credit as required in sub-subparagraph 3.c. If the annual credit is not fully used through such refund because of

insufficient tax payments during the applicable 12-month period, the unused amount may be included in an application for a refund made pursuant to sub-subparagraph 3.c. in subsequent years against the total tax payments made for such year. Carryover credits may be applied for a 3-year period without regard to any time limitation that would otherwise apply under s. 215.26.~~;~~

c. A person may not receive more than $200,000 in annual tax credits for all approved community contributions made in any one year.~~;~~

d. All proposals for the granting of the tax credit require the prior approval of the Office of Tourism, Trade, and Economic Development.~~;~~

e. The total amount of tax credits which may be granted for all programs approved under this paragraph, s. 220.183, and s. 624.5105 is $10 ~~$12~~ million annually for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) and $3 million annually for all other projects.~~; and~~

f. A person who is eligible to receive the credit provided for in this paragraph, s. 220.183, or s. 624.5105 may receive the credit only under the one section of the person's choice.

2. Eligibility requirements.--

a. A community contribution by a person must be in the following form:

(I) Cash or other liquid assets;

(II) Real property;

(III) Goods or inventory; or

(IV) Other physical resources as identified by the Office of Tourism, Trade, and Economic Development.

b. All community contributions must be reserved exclusively for use in a project. As used in this sub-

subparagraph, the term "project" means any activity undertaken by an eligible sponsor which is designed to construct, improve, or substantially rehabilitate housing that is affordable to low-income or very-low-income households as defined in s. 420.9071(19) and (28); designed to provide commercial, industrial, or public resources and facilities; or designed to improve entrepreneurial and job-development opportunities for low-income persons. A project may be the investment necessary to increase access to high-speed broadband capability in rural communities with enterprise zones, including projects that result in improvements to communications assets that are owned by a business. A project may include the provision of museum educational programs and materials that are directly related to any project approved between January 1, 1996, and December 31, 1999, and located in an enterprise zone designated pursuant to s. 290.0065. This paragraph does not preclude projects that propose to construct or rehabilitate housing for low-income or very-low-income households on scattered sites. With respect to housing, contributions may be used to pay the following eligible low-income and very-low-income housing-related activities:

(I) Project development impact and management fees for low-income or very-low-income housing projects;

(II) Down payment and closing costs for eligible persons, as defined in s. 420.9071(19) and (28);

(III) Administrative costs, including housing counseling and marketing fees, not to exceed 10 percent of the community contribution, directly related to low-income or very-low-income projects; and

(IV) Removal of liens recorded against residential property by municipal, county, or special district local governments when satisfaction of the lien is a necessary

precedent to the transfer of the property to an eligible person, as defined in s. 420.9071(19) and (28), for the purpose of promoting home ownership. Contributions for lien removal must be received from a nonrelated third party.

c. The project must be undertaken by an "eligible sponsor," which includes:

(I) A community action program;

(II) A nonprofit community-based development organization whose mission is the provision of housing for low-income or very-low-income households or increasing entrepreneurial and job-development opportunities for low-income persons;

(III) A neighborhood housing services corporation;

(IV) A local housing authority created under chapter 421;

(V) A community redevelopment agency created under s. 163.356;

(VI) The Florida Industrial Development Corporation;

(VII) A historic preservation district agency or organization;

(VIII) A regional workforce board;

(IX) A direct-support organization as provided in s. 1009.983;

(X) An enterprise zone development agency created under s. 290.0056;

(XI) A community-based organization incorporated under chapter 617 which is recognized as educational, charitable, or scientific pursuant to s. 501(c)(3) of the Internal Revenue Code and whose bylaws and articles of incorporation include affordable housing, economic development~~,~~ or community development as the primary mission of the corporation;

(XII) Units of local government;

(XIII) Units of state government; or

(XIV) Any other agency that the Office of Tourism, Trade, and Economic Development designates by rule.

In no event may a contributing person have a financial interest in the eligible sponsor.

d. The project must be located in an area designated an enterprise zone or a Front Porch Florida Community pursuant to s. 20.18(6), unless the project increases access to high-speed broadband capability for rural communities with enterprise zones but is physically located outside the designated rural zone boundaries. Any project designed to construct or rehabilitate housing for low-income or very-low-income households as defined in s. 420.0971(19) and (28) is exempt from the area requirement of this sub-subparagraph.

e.~~(I) For the first 6 months of the fiscal year, the Office of Tourism, Trade, and Economic Development shall reserve 80 percent of the first $10 million in available annual tax credits and 70 percent of any available annual tax credits in excess of $10 million for donations made to eligible sponsors for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28). If any such reserved annual tax credits remain after the first 6 months of the fiscal year, the office may approve the balance of these available credits for donations made to eligible sponsors for projects other than those that provide homeownership opportunities for low-income or very-low-income households.~~

~~(II) For the first 6 months of the fiscal year, the office shall reserve 20 percent of the first $10 million in available annual tax credits and 30 percent of any available annual tax credits in excess of $10 million for donations made to eligible~~

~~sponsors for projects other than those that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28). If any reserved annual tax credits remain after the first 6 months of the fiscal year, the office may approve the balance of these available credits for donations made to eligible sponsors for projects that provide homeownership opportunities for low-income or very-low-income households.~~

(I) ~~(III)~~ If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for less than the ~~available~~ annual tax credits available for those projects ~~reserved under sub-sub-subparagraph (I)~~, the office shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-served basis for any subsequent eligible applications received before the end of the ~~first 6 months of the~~ state fiscal year. If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for more than the ~~available~~ annual tax credits available for those projects ~~reserved under sub-sub-subparagraph (I)~~, the office shall grant the tax credits for those ~~the~~ applications as follows:

(A) If tax credit applications submitted for approved projects of an eligible sponsor do not exceed $200,000 in total, the credits shall be granted in full if the tax credit applications are approved~~, subject to sub-sub-subparagraph (I)~~.

(B) If tax credit applications submitted for approved projects of an eligible sponsor exceed $200,000 in total, the amount of tax credits granted pursuant to sub-sub-sub-subparagraph (A) shall be subtracted from the amount of available tax credits ~~under sub-sub-subparagraph (I)~~, and the remaining credits shall be granted to each approved tax credit application on a pro rata basis.

~~(C) If, after the first 6 months of the fiscal year, additional credits become available under sub-sub-subparagraph (II), the office shall grant the tax credits by first granting to those who received a pro rata reduction up to the full amount of their request and, if there are remaining credits, granting credits to those who applied on or after the 11th business day of the state fiscal year on a first-come, first-served basis.~~

(II) ~~(IV)~~ If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects other than those that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for less than the ~~available~~ annual tax credits available for those projects ~~reserved under sub-sub-subparagraph (II)~~, the office shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-served basis for any subsequent eligible applications received before the end of ~~the first 6 months of~~ the state fiscal year. If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects other than those that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for more than the ~~available~~ annual tax credits available for those projects ~~reserved under sub-sub-subparagraph (II)~~, the office shall grant

the tax credits for those ~~the~~ applications on a pro rata basis. ~~If, after the first 6 months of the fiscal year, additional credits become available under sub-sub-subparagraph (I), the office shall grant the tax credits by first granting to those who received a pro rata reduction up to the full amount of their request and, if there are remaining credits, granting credits to those who applied on or after the 11th business day of the state fiscal year on a first-come, first-served basis.~~

3. Application requirements.--

a. Any eligible sponsor seeking to participate in this program must submit a proposal to the Office of Tourism, Trade, and Economic Development which sets forth the name of the sponsor, a description of the project, and the area in which the project is located, together with such supporting information as is prescribed by rule. The proposal must also contain a resolution from the local governmental unit in which the project is located certifying that the project is consistent with local plans and regulations.

b. Any person seeking to participate in this program must submit an application for tax credit to the office ~~of Tourism, Trade, and Economic Development~~ which sets forth the name of the sponsor, a description of the project, and the type, value, and purpose of the contribution. The sponsor shall verify the terms of the application and indicate its receipt of the contribution, which verification must be in writing and accompany the application for tax credit. The person must submit a separate tax credit application to the office for each individual contribution that it makes to each individual project.

c. Any person who has received notification from the office ~~of Tourism, Trade, and Economic Development~~ that a tax credit has been approved must apply to the department to receive

the refund. Application must be made on the form prescribed for claiming refunds of sales and use taxes and be accompanied by a copy of the notification. A person may submit only one application for refund to the department within any 12-month period.

4. Administration.--

a. The Office of Tourism, Trade, and Economic Development may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to administer this paragraph, including rules for the approval or disapproval of proposals by a person.

b. The decision of the office ~~of Tourism, Trade, and Economic Development~~ must be in writing, and, if approved, the notification shall state the maximum credit allowable to the person. Upon approval, the office shall transmit a copy of the decision to the Department of Revenue.

c. The office ~~of Tourism, Trade, and Economic Development~~ shall periodically monitor all projects in a manner consistent with available resources to ensure that resources are used in accordance with this paragraph; however, each project must be reviewed at least once every 2 years.

d. The office ~~of Tourism, Trade, and Economic Development~~ shall, in consultation with the Department of Community Affairs~~,~~ ~~the Florida Housing Finance Corporation,~~ and the statewide and regional housing and financial intermediaries, market the availability of the community contribution tax credit program to community-based organizations.

5. Expiration.--This paragraph expires June 30, 2015; however, any accrued credit carryover that is unused on that date may be used until the expiration of the 3-year carryover period for such credit.

Section 11. Paragraph (c) of subsection (1) and paragraph (b) of subsection (2) and of section 220.183, Florida Statutes, are amended to read:

220.183 Community contribution tax credit.--

(1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM SPENDING.--

(c) The total amount of tax credit which may be granted for all programs approved under this section, s. 212.08(5)(q), and s. 624.5105 is $10 ~~$12~~ million annually for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) and $3 million annually for all other projects.

(2) ELIGIBILITY REQUIREMENTS.--

(b)1. All community contributions must be reserved exclusively for use in projects as defined in s. 220.03(1)(t).

~~2. For the first 6 months of the fiscal year, the Office of Tourism, Trade, and Economic Development shall reserve 80 percent of the first $10 million in available annual tax credits, and 70 percent of any available annual tax credits in excess of $10 million, for donations made to eligible sponsors for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28). If any reserved annual tax credits remain after the first 6 months of the fiscal year, the office may approve the balance of these available credits for donations made to eligible sponsors for projects other than those that provide homeownership opportunities for low-income or very-low-income households.~~

~~3. For the first 6 months of the fiscal year, the office shall reserve 20 percent of the first $10 million in available~~

~~annual tax credits, and 30 percent of any available annual tax credits in excess of $10 million, for donations made to eligible sponsors for projects other than those that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28). If any reserved annual tax credits remain after the first 6 months of the fiscal year, the office may approve the balance of these available credits for donations made to eligible sponsors for projects that provide homeownership opportunities for low-income or very-low-income households.~~

2.~~4.~~ If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for less than the ~~available~~ annual tax credits available for those projects ~~reserved under subparagraph 2.~~, the office shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-served basis for any subsequent eligible applications received before the end of the ~~first 6 months of the~~ state fiscal year. If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for more than the ~~available~~ annual tax credits available for those projects ~~reserved under subparagraph 2.~~, the office shall grant the tax credits for those ~~such~~ applications as follows:

a. If tax credit applications submitted for approved projects of an eligible sponsor do not exceed $200,000 in total, the credit shall be granted in full if the tax credit

applications are approved~~, subject to the provisions of subparagraph 2~~.

b. If tax credit applications submitted for approved projects of an eligible sponsor exceed $200,000 in total, the amount of tax credits granted under sub-subparagraph a. shall be subtracted from the amount of available tax credits ~~under subparagraph 2.~~, and the remaining credits shall be granted to each approved tax credit application on a pro rata basis.

~~c. If, after the first 6 months of the fiscal year, additional credits become available pursuant to subparagraph 3., the office shall grant the tax credits by first granting to those who received a pro rata reduction up to the full amount of their request and, if there are remaining credits, granting credits to those who applied on or after the 11th business day of the state fiscal year on a first-come, first-served basis.~~

3.~~5.~~ If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects other than those that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for less than the ~~available~~ annual tax credits available for those projects ~~reserved under subparagraph 3.~~, the office shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-served basis for any subsequent eligible applications received before the end of the ~~first 6 months of the~~ state fiscal year. If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects other than those that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for more than the ~~available~~ annual tax credits available for those projects

~~reserved under subparagraph 3.~~, the office shall grant the tax credits for those ~~such~~ applications on a pro rata basis. ~~If, after the first 6 months of the fiscal year, additional credits become available under subparagraph 2., the office shall grant the tax credits by first granting to those who received a pro rata reduction up to the full amount of their request and, if there are remaining credits, granting credits to those who applied on or after the 11th business day of the state fiscal year on a first-come, first-served basis.~~

Section 12. Paragraph (f) of subsection (6) of section 253.034, Florida Statutes, is amended to read:

253.034 State-owned lands; uses.--

(6) The Board of Trustees of the Internal Improvement Trust Fund shall determine which lands, the title to which is vested in the board, may be surplused. For conservation lands, the board shall make a determination that the lands are no longer needed for conservation purposes and may dispose of them by an affirmative vote of at least three members. In the case of a land exchange involving the disposition of conservation lands, the board must determine by an affirmative vote of at least three members that the exchange will result in a net positive conservation benefit. For all other lands, the board shall make a determination that the lands are no longer needed and may dispose of them by an affirmative vote of at least three members.

(f)~~1.~~ In reviewing lands owned by the board, the council shall consider whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located. A local government may request that state lands be specifically declared to be surplus lands for the purpose of providing affordable housing. The council

shall recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interests of the state and local government. The provisions of this paragraph in no way limit the provisions of ss. 253.111 and 253.115. Such lands shall be offered to the state, county, or local government for a period of 30 days. Permittable uses for such surplus lands may include public schools; public libraries; fire or law enforcement substations; and governmental, judicial, or recreational centers; and affordable housing. County or local government requests for surplus lands shall be expedited throughout the surplusing process. Surplus lands that are conveyed to a local government for affordable housing shall be disposed of under the provisions of s. 125.379 or s. 166.0451. If the county or local government does not elect to purchase such lands in accordance with s. 253.111, then any surplusing determination involving other governmental agencies shall be made upon the board deciding the best public use of the lands. Surplus properties in which governmental agencies have expressed no interest shall then be available for sale on the private market.

2. Notwithstanding subparagraph 1., any surplus lands that were acquired by the state prior to 1958 by a gift or other conveyance for no consideration from a municipality, and which the department has filed by July 1, 2006, a notice of its intent to surplus, shall be first offered for reconveyance to such municipality at no cost, but for the fair market value of any building or other improvements to the land, unless otherwise provided in a deed restriction of record. This subparagraph expires July 1, 2006.

Section 13. Section 295.16, Florida Statutes, is amended to read:

295.16 Disabled veterans exempt from certain license or permit fee.--No totally and permanently disabled veteran who is a resident of Florida and honorably discharged from the Armed Forces, who has been issued a valid identification card by the Department of Veterans' Affairs in accordance with s. 295.17 or has been determined by the United States Department of Veterans Affairs or its predecessor to have a service-connected 100-percent disability rating for compensation, or who has been determined to have a service-connected disability rating of 100 percent and is in receipt of disability retirement pay from any branch of the uniformed armed services, shall be required to pay any license or permit fee, by whatever name known, to any county or municipality in order to make improvements upon a dwelling ~~mobile home~~ owned by the veteran which is used as the veteran's residence, provided such improvements are limited to ramps, widening of doors, and similar improvements for the purpose of making the dwelling ~~mobile home~~ habitable for veterans confined to wheelchairs.

Section 14. Paragraph (b) of subsection (19) of section 380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.--

(19) SUBSTANTIAL DEVIATIONS.--

(b) Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the following criteria shall constitute a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review without the necessity for a finding of same by the local government:

1. An increase in the number of parking spaces at an attraction or recreational facility by 5 percent or 300 spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 5 percent or 1,000 spectators, whichever is greater.

2. A new runway, a new terminal facility, a 25-percent lengthening of an existing runway, or a 25-percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates.

3. An increase in the number of hospital beds by 5 percent or 60 beds, whichever is greater.

4. An increase in industrial development area by 5 percent or 32 acres, whichever is greater.

5. An increase in the average annual acreage mined by 5 percent or 10 acres, whichever is greater, or an increase in the average daily water consumption by a mining operation by 5 percent or 300,000 gallons, whichever is greater. An increase in the size of the mine by 5 percent or 750 acres, whichever is less. An increase in the size of a heavy mineral mine as defined in s. 378.403(7) will only constitute a substantial deviation if the average annual acreage mined is more than 500 acres and consumes more than 3 million gallons of water per day.

6. An increase in land area for office development by 5 percent or an increase of gross floor area of office development by 5 percent or 60,000 gross square feet, whichever is greater.

7. An increase in the storage capacity for chemical or petroleum storage facilities by 5 percent, 20,000 barrels, or 7 million pounds, whichever is greater.

8. An increase of development at a waterport of wet storage for 20 watercraft, dry storage for 30 watercraft, or wet/dry storage for 60 watercraft in an area identified in the

state marina siting plan as an appropriate site for additional waterport development or a 5-percent increase in watercraft storage capacity, whichever is greater.

9. An increase in the number of dwelling units by 5 percent or 50 dwelling units, whichever is greater.

10. An increase in the number of dwelling units by 15 percent or 100 units, whichever is greater, provided that 20 percent of the increase in the number of dwelling units is dedicated to the construction of workforce housing. For purposes of this subparagraph, the term "workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income.

11 ~~10~~. An increase in commercial development by 50,000 square feet of gross floor area or of parking spaces provided for customers for 300 cars or a 5-percent increase of either of these, whichever is greater.

12 ~~11~~. An increase in hotel or motel facility units by 5 percent or 75 units, whichever is greater.

13 ~~12~~. An increase in a recreational vehicle park area by 5 percent or 100 vehicle spaces, whichever is less.

14 ~~13~~. A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

15 ~~14~~. A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 100 percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 100 percent has been reached or exceeded.

16 ~~15~~. A 15-percent increase in the number of external vehicle trips generated by the development above that which was

projected during the original development-of-regional-impact review.

17 ~~16~~. Any change which would result in development of any area which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The further refinement of such areas by survey shall be considered under sub-subparagraph (e)5.b.

The substantial deviation numerical standards in subparagraphs 4., 6., 10., 14., excluding residential uses, and 15., are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Office of Tourism, Trade, and Economic Development as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 4., 6., 9., 10., 11., and 14. are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

Section 15. Paragraph (k) of subsection (3) of section 380.0651, Florida Statutes, is amended to read:

380.0651 Statewide guidelines and standards.--

(3) The following statewide guidelines and standards shall be applied in the manner described in s. 380.06(2) to determine

whether the following developments shall be required to undergo development-of-regional-impact review:

(k) Workforce housing.-- The applicable guidelines for residential development and the residential component for multiuse development shall be increased by 20 percent where the developer demonstrates that at least 15 percent of the residential dwelling units will be dedicated to workforce housing. For purposes of this subparagraph, the term "workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income.

(l) ~~(k)~~ Schools.--

1. The proposed construction of any public, private, or proprietary postsecondary educational campus which provides for a design population of more than 5,000 full-time equivalent students, or the proposed physical expansion of any public, private, or proprietary postsecondary educational campus having such a design population that would increase the population by at least 20 percent of the design population.

2. As used in this paragraph, "full-time equivalent student" means enrollment for 15 or more quarter hours during a single academic semester. In career centers or other institutions which do not employ semester hours or quarter hours in accounting for student participation, enrollment for 18 contact hours shall be considered equivalent to one quarter hour, and enrollment for 27 contact hours shall be considered equivalent to one semester hour.

3. This paragraph does not apply to institutions which are the subject of a campus master plan adopted by the university board of trustees pursuant to s. 1013.30.

Section 16. Subsection (8), subsection (9), subsection (10), subsection (11), subsection (12), subsection (13), and

subsection (14) of section 420.0004, Florida Statutes, are amended to read:

420.0004 Definitions.--As used in this part, unless the context otherwise indicates:

(8) "Extremely low income persons" means one or more natural persons or a family whose total annual household income does not exceed 30% of the median annual adjusted gross income for households within the state. Florida Housing Finance Corporation may adjust this amount annually by rule to provide that in lower income counties extremely low income may exceed 30% of area median income, and that in higher income counties extremely low income may be less than 30% of area median income.

(9) ~~(8)~~ "Local public body" means any county, municipality, or other political subdivision, or any housing authority as provided by chapter 421, which is eligible to sponsor or develop housing for farmworkers and very-low-income and low-income persons within its jurisdiction.

(10) ~~(9)~~ "Low-income persons" means one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

(11) ~~(10)~~ "Moderate-income persons" means one or more natural persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if

not within an MSA, within the county in which the person or family resides, whichever is greater.

(12) ~~(11)~~ "Student" means any person not living with his or her parent or guardian who is eligible to be claimed by his or her parent or guardian as a dependent under the federal income tax code and who is enrolled on at least a half-time basis in a secondary school, career center, community college, college, or university.

(13) ~~(12)~~ "Substandard" means:

(a) Any unit lacking complete plumbing or sanitary facilities for the exclusive use of the occupants;

(b) A unit which is in violation of one or more major sections of an applicable housing code and where such violation poses a serious threat to the health of the occupant; or

(c) A unit that has been declared unfit for human habitation but that could be rehabilitated for less than 50 percent of the property value.

(14) ~~(13)~~ "Substantial rehabilitation" means repair or restoration of a dwelling unit where the value of such repair or restoration exceeds 40 percent of the value of the dwelling.

(15) ~~(14)~~ "Very-low-income persons" means one or more natural persons or a family, not including students, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

Section 17. Section 420.37, Florida Statutes, is repealed.

Section 18. Subsection (18) of section 420.503, Florida Statutes, is amended to read:

420.503 Definitions.--As used in this part, the term:

(18)(a) "Farmworker" means a laborer who is employed on a seasonal, temporary, or permanent basis in the planting, cultivating, harvesting, or processing of agricultural or aquacultural products and who derived at least 50 percent of her or his income in the immediately preceding 12 months from such employment.

(b) "Farmworker" ~~also~~ includes a person who has retired as a laborer due to age, disability, or illness. In order to be considered retired as a farmworker due to age under this part, a person must be 50 years of age or older and must have been employed for a minimum of 5 years as a farmworker before retirement. In order to be considered retired as a farmworker due to disability or illness, a person must:

1. ~~(a)~~ Establish medically that she or he is unable to be employed as a farmworker due to that disability or illness.

2. ~~(b)~~ Establish that she or he was previously employed as a farmworker.

(c) Notwithstanding paragraphs (a) and (b), when corporation-administered funds are used in conjunction with United States Department of Agriculture Rural Development funds, the term "farmworker" may mean a laborer who meets, at a minimum, the definition of "domestic farm laborer" as found in 7 C.F.R. s. 3560.11, as amended. The corporation may establish additional criteria by rule.

Section 19. Subsection (22), subsection (23), and subsection (40) of section 420.507, Florida Statutes are amended; and subsection (44), subsection (45), and subsection (46) of section 420.507, Florida Statutes, are created to read:

420.507 Powers of the corporation.--The corporation shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers which are in addition to all other powers granted by other provisions of this part:

(22) To develop and administer the State Apartment Incentive Loan Program. In developing and administering that program, the corporation may:

(a) Make first, second, and other subordinated mortgage loans including variable or fixed rate loans subject to contingent interest for all State Apartment Incentive Loans provided for in this chapter based upon available cash flow of the projects. The corporation shall make loans exceeding 25 percent of project cost available only to nonprofit organizations and public bodies which are able to secure grants, donations of land, or contributions from other sources and to projects meeting the criteria of subparagraph 1. Mortgage loans shall be made available at the following rates of interest:

1. Zero to three percent interest for sponsors of projects that set aside at least ~~maintain an~~ 80 percent ~~occupancy~~ of their total units for residents qualifying as farm workers as defined in this part, ~~s.420.503 (18)~~ or commercial fishing workers as defined in this part, ~~s.420.503 (5)~~ or the homeless as defined in s. 420.621(4) over the life of the loan.

2. The board may set the interest rate based on the pro rata share of units set aside for homeless residents if the total of such units is less than 80 percent of the units in the borrower's project.

3. ~~2.~~ One ~~Three~~ to 9 percent interest for sponsors of projects targeted at populations other than farmworkers, commercial fishing workers, and the homeless.

(b) The corporation may make loans exceeding 25% of project cost where the project serves extremely low income families.

(c) The corporation may forgive indebtedness for a pro rata share of the loan based on the number of units in a project reserved for extremely low income families.

~~(b)~~ (d) Geographically and demographically target the utilization of loans.

~~(c)~~ (e) Underwrite credit, and reject projects which do not meet the established standards of the corporation.

~~(d)~~ (f) Negotiate with governing bodies within the state after a loan has been awarded to obtain local government contributions.

~~(e)~~ (g) Inspect any records of a sponsor at any time during the life of the loan or the agreed period for maintaining the provisions of s. 420.5087.

~~(f)~~ (h) Establish, by rule, the procedure for evaluating, scoring, and competitively ranking all applications based on the criteria set forth in s. 420.5087(6)(c); determining actual loan amounts; making and servicing loans; and exercising the powers authorized in this subsection.

~~(g)~~ (i) Establish a loan loss insurance reserve to be used to protect the outstanding program investment in case of a default, deed in lieu of foreclosure, or foreclosure of a program loan.

(23) To develop and administer the Florida Homeownership Assistance Program. In developing and administering the program, the corporation may:

(a)1. Make subordinated loans to eligible borrowers for down payments or closing costs related to the purchase of the borrower's primary residence.

2. Make permanent loans to eligible borrowers related to the purchase of the borrower's primary residence.

3. Make subordinated loans to nonprofit sponsors or developers of housing for purchase of property, for construction, or for financing of housing to be offered for sale to eligible borrowers as a primary residence at an affordable price.

(b) Establish a loan loss insurance reserve to supplement existing sources of mortgage insurance with appropriated funds.

(c) Geographically and demographically target the utilization of loans.

(d) Defer repayment of loans for the term of the first mortgage.

(e) Establish flexible terms for loans with an interest rate not to exceed 3 percent per annum and which are nonamortizing for the term of the first mortgage.

(f) Require repayment of loans upon sale, transfer, refinancing, or rental of secured property.

(g) Accelerate a loan for monetary default, for failure to provide the benefits of the loans to eligible borrowers, or for violation of any other restriction placed upon the loan.

(h) Adopt rules for the program and exercise the powers authorized in this subsection.

(40) To establish subsidiary business entities ~~corporations~~ for the purpose of taking title to and managing and disposing of property acquired by the corporation. Such subsidiary business entities ~~corporations~~ shall be public business entities ~~corporations~~ wholly owned by the corporation; shall be entitled to own, mortgage, and sell property on the same basis as the corporation; and shall be deemed business entities ~~corporations~~ primarily acting as an agent of the state,

within the meaning of s. 768.28, on the same basis as the corporation. Any subsidiary business entity created by the corporation shall be subject to chapters 119, 120, and 286 to the same extent as the corporation. The subsidiary business entities shall have authority to make rules necessary to conduct business and to carry out the purposes of this subsection.

(44) To adopt rules whereby the corporation may intervene, negotiate terms, or undertake other actions which the corporation deems necessary to further program goals or avoid default of a program loan. Such rules must consider fiscal program goals and the preservation or advancement of affordable housing for the state.

(45) To establish by rule requirements for periodic reporting of data, including, but not limited to, financial data, housing market data, detailed economic and physical occupancy on multifamily projects, and demographic data on all housing financed through corporation programs.

(46) In order to administer funds appropriated for disaster recovery and reconstruction following a declaration of emergency pursuant to s. 252.36, the corporation may create programs to repair, rehabilitate, and construct multifamily and single family dwellings. To administer this subsection, the corporation may adopt emergency rules pursuant to s. 120.54. The Legislature finds that emergency rules adopted pursuant to this section meet the health, safety, and welfare requirement of s. 120.54(4). The Legislature finds that such emergency rulemaking power is necessary for the preservation of the rights and welfare of the people in order to provide additional funds to assist those areas of the state which sustained housing damage due to the occurrence of a disaster, as defined in s.

252.34(1). Emergency rules adopted under this section are exempt from s. 120.54(4)(a) and (c).

Section 20. Subsection (1), subsection (3), subsection (5) and subsection (6) of section 420.5087, Florida Statutes, are amended to read:

420.5087 State Apartment Incentive Loan Program.--There is hereby created the State Apartment Incentive Loan Program for the purpose of providing first, second, or other subordinated mortgage loans or loan guarantees to sponsors, including for-profit, nonprofit, and public entities, to provide housing affordable to very-low-income persons.

(1) Program funds shall be distributed over successive 3-year periods in a manner that meets the need and demand for very-low-income housing throughout the state. That need and demand must be determined by using the most recent statewide low-income rental housing market studies available at the beginning of each 3-year period. However, at least 10 percent of the program funds distributed during a 3-year period must be allocated to each of the following categories of counties, as determined by using the population statistics published in the most recent edition of the Florida Statistical Abstract:

(a) Counties that have a population of 825,000 or more. ~~than 500,000 people;~~

(b) Counties that have a population of more than ~~between~~ 100,000 but less than, 825,000. ~~and 500,000 people; and~~

(c) Counties that have a population of 100,000 or less.

Any increase in funding required to reach the 10-percent minimum shall be taken from the county category that has the largest allocation. The corporation shall adopt rules which establish an equitable process for distributing any portion of the 10 percent

of program funds allocated to the county categories specified in this subsection which remains unallocated at the end of a 3-year period. Counties that have a population of 100,000 or less shall be given preference under these rules.

(3) During the first 6 months of loan or loan guarantee availability, program funds shall be reserved for use by sponsors who provide the housing set-aside required in subsection (2) for the tenant groups designated in this subsection. The reservation of funds to each of these groups shall be determined using the most recent statewide very-low-income rental housing market study available at the time of publication of each notice of fund availability required by paragraph (6)(b). The reservation of funds within each notice of fund availability to the tenant groups in paragraphs (a), (b), and (d) may not be less than 10 percent of the funds available at that time. Any increase in funding required to reach the 10-percent minimum shall be taken from the tenant group that has the largest reservation. The reservation of funds within each notice of fund availability to the tenant group in paragraph (c) may not be less than 5 percent of the funds available at that time. The tenant groups are:

(a) Commercial fishing workers and farmworkers;

(b) Families;

(c) Persons who are homeless; and

(d) Elderly persons. Ten percent of the amount reserved for the elderly shall be reserved to provide loans to sponsors of housing for the elderly for the purpose of making building preservation, health, or sanitation repairs or improvements which are required by federal, state, or local regulation or code, or life safety or security-related repairs or improvements to such housing. Such a loan may not exceed $750,000 per housing

community for the elderly. In order to receive the loan, the sponsor of the housing community must make a commitment to match at least 5 ~~15~~ percent of the loan amount to pay the cost of such repair or improvement. The corporation shall establish the rate of interest on the loan, which may not exceed 3 percent, and the term of the loan, which may not exceed 15 years, however, if the lien of the corporation's encumbrance is subordinate to the lien of another mortgagee, then the term may be made coterminous with the longest term of the superior lien. The term of the loan shall be established on the basis of a credit analysis of the applicant. The corporation shall establish, by rule, the procedure and criteria for receiving, evaluating, and competitively ranking all applications for loans under this paragraph. A loan application must include evidence of the first mortgagee's having reviewed and approved the sponsor's intent to apply for a loan. A nonprofit organization or sponsor may not use the proceeds of the loan to pay for administrative costs, routine maintenance, or new construction.

(5) The amount of the mortgage provided under this program combined with any other mortgage in a superior position shall be less than the value of the project without the housing set-aside required by subsection (2). However, the corporation may waive this requirement for projects in rural areas or urban infill areas which have market rate rents that are less than the allowable rents pursuant to applicable state and federal guidelines, and for projects which reserve units for extremely low income families. In no event shall the mortgage provided under this program combined with any other mortgage in a superior position exceed total project cost.

(6) On all state apartment incentive loans, except loans made to housing communities for the elderly to provide for

lifesafety, building preservation, health, sanitation, or security-related repairs or improvements, the following provisions shall apply:

(a) The corporation shall establish two interest rates in accordance with s. 420.507(22)(a)1. and 2.

(b) The corporation shall publish a notice of fund availability in a publication of general circulation throughout the state. Such notice shall be published at least 60 days prior to the application deadline and shall provide notice of the temporary reservations of funds established in subsection (3).

(c) The corporation shall provide by rule for the establishment of a review committee composed of the department and corporation staff and shall establish by rule a scoring system for evaluation and competitive ranking of applications submitted in this program, including, but not limited to, the following criteria:

1. Tenant income and demographic targeting objectives of the corporation.

2. Targeting objectives of the corporation which will ensure an equitable distribution of loans between rural and urban areas.

3. Sponsor's agreement to reserve the units for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, for a time period to exceed the minimum required by federal law or the provisions of this part.

4. Sponsor's agreement to reserve more than:

a. Twenty percent of the units in the project for persons or families who have incomes that do not exceed 50 percent of the state or local median income, whichever is higher; or

b. Forty percent of the units in the project for persons or families who have incomes that do not exceed 60 percent of the state or local median income, whichever is higher, without requiring a greater amount of the loans as provided in this section.

5. Provision for tenant counseling.

~~6. Sponsor's agreement to accept rental assistance certificates or vouchers as payment for rent; however, when certificates or vouchers are accepted as payment for rent on units set aside pursuant to subsection (2), the benefit must be divided between the corporation and the sponsor, as provided by corporation rule.~~

6 ~~7~~. Projects requiring the least amount of a state apartment incentive loan compared to overall project cost except that the share of the loan attributable to the extremely low income units shall be excluded from this requirement.

7 ~~8~~. Local government contributions and local government comprehensive planning and activities that promote affordable housing.

8 ~~9~~. Project feasibility.

9 ~~10~~. Economic viability of the project.

10 ~~11~~. Commitment of first mortgage financing.

11 ~~12~~. Sponsor's prior experience.

12 ~~13~~. Sponsor's ability to proceed with construction.

13 ~~14~~. Projects that directly implement or assist welfare-to-work transitioning.

14. Projects which reserve units for extremely low income families.

(d) The corporation may reject any and all applications.

(e) The corporation may approve and reject applications for the purpose of achieving geographic targeting.

(f) The review committee established by corporation rule pursuant to this subsection shall make recommendations to the board of directors of the corporation regarding program participation under the State Apartment Incentive Loan Program. The corporation board shall make the final ranking and the decisions regarding which applicants shall become program participants based on the scores received in the competitive ranking, further review of applications, and the recommendations of the review committee. The corporation board shall approve or reject applications for loans and shall determine the tentative loan amount available to each applicant selected for participation in the program. The actual loan amount shall be determined pursuant to rule adopted pursuant to s. 420.507(22)(f).

(g) The loan term shall be for a period of not more than 15 years; however, if both a program loan and federal low-income housing tax credits are to be used to assist a project, the corporation may set the loan term for a period commensurate with the investment requirements associated with the tax credit syndication. The term of the loan may also exceed 15 years if necessary to conform to requirements of the Federal National Mortgage Association. The corporation may renegotiate and extend the loan in order to extend the availability of housing for the targeted population. The term of a loan may not extend beyond the period for which the sponsor agrees to provide the housing set-aside required by subsection (2).

(h) The loan shall be subject to sale, transfer, or refinancing. ~~However, all requirements and conditions of the loan shall remain following sale, transfer, or refinancing.~~ The sale, transfer, or refinancing of the loan shall be consistent

with fiscal program goals and the preservation or advancement of affordable housing for the state.

(i) The discrimination provisions of s. 420.516 shall apply to all loans.

(j) The corporation may require units dedicated for the elderly.

(k) Rent controls shall not be allowed on any project except as required in conjunction with the issuance of tax-exempt bonds or federal low-income housing tax credits.

(l) The proceeds of all loans shall be used for new construction or substantial rehabilitation which creates affordable, safe, and sanitary housing units.

(m) Sponsors shall annually certify the adjusted gross income of all persons or families qualified under subsection (2) at the time of initial occupancy, who are residing in a project funded by this program. All persons or families qualified under subsection (2) may continue to qualify under subsection (2) in a project funded by this program if the adjusted gross income of those persons or families at the time of annual recertification meets the requirements established in s. 142(d)(3)(B) of the Internal Revenue Code of 1986, as amended. If the annual recertification of persons or families qualifying under subsection (2) results in noncompliance with income occupancy requirements, the next available unit must be rented to a person or family qualifying under subsection (2) in order to ensure continuing compliance of the project. The corporation may waive the annual recertification if 100 percent of the units are set aside as affordable.

(n) Upon submission and approval of a marketing plan which demonstrates a good faith effort of a sponsor to rent a unit or units to persons or families reserved under subsection (3) and

qualified under subsection (2), the sponsor may rent such unit or units to any person or family qualified under subsection (2) notwithstanding the reservation.

(o) Sponsors may participate in federal mortgage insurance programs and must abide by the requirements of those programs. If a conflict occurs between the requirements of federal mortgage insurance programs and the requirements of this section, the requirements of federal mortgage insurance programs shall take precedence.

Section 21. Subsection (1), subsection (2), subsection (3), and subsection (4) of section 420.5088, Florida Statutes, are amended to read:

420.5088 Florida Homeownership Assistance Program.--There is created the Florida Homeownership Assistance Program for the purpose of assisting low and moderate-income persons in purchasing a home as their primary residence by reducing the cost of the home with below-market construction financing, by reducing the amount of down payment and closing costs paid by the borrower to a maximum of 5 percent of the purchase price, or by reducing the monthly payment to an affordable amount for the purchaser. Loans shall be made available at an interest rate that does not exceed 3 percent. The balance of any loan is due at closing if the property is sold, refinanced or transferred, unless otherwise approved by the corporation.

(1) For loans made available pursuant to s. 420.507(23)(a)1. or 2.:

(a) The corporation may underwrite and make those mortgage loans through the program to persons or families who have incomes that do not exceed 120 ~~80~~ percent of the state or local median income, whichever is greater, adjusted for family size.

(b) Loans shall be made available for the term of the first mortgage.

(c) Loans may not exceed ~~are limited to~~ the lesser of 35 ~~25~~ percent of the purchase price of the home or the amount necessary to enable the purchaser to meet credit underwriting criteria.

(2) For loans made pursuant to s. 420.507(23)(a)3.:

(a) Availability is limited to nonprofit sponsors or developers who are selected for program participation pursuant to this subsection.

(b) Preference must be given ~~to community development corporations as defined in s. 290.033 and~~ to community-based organizations as defined in s. 420.503.

(c) Priority must be given to projects that have received state assistance in funding project predevelopment costs.

(d) The benefits of making such loans shall be contractually provided to the persons or families purchasing homes financed under this subsection.

(e) At least 30 percent of the units in a project financed pursuant to this subsection must be sold to persons or families who have incomes that do not exceed 80 percent of the state or local median income, whichever amount is greater, adjusted for family size; and at least another 30 percent of the units in a project financed pursuant to this subsection must be sold to persons or families who have incomes that do not exceed 65 ~~50~~ percent of the state or local median income, whichever amount is greater, adjusted for family size.

(f) The maximum loan amount may not exceed 33 percent of the total project cost.

(g) A person who purchases a home in a project financed under this subsection is eligible for a loan authorized by s.

420.507(23)(a)1. or 2. in an aggregate amount not exceeding the construction loan made pursuant to this subsection. The home purchaser must meet all the requirements for loan recipients established pursuant to the applicable loan program.

(h) The corporation shall provide, by rule, for the establishment of a review committee composed of corporation staff and shall establish, by rule, a scoring system for evaluating and ranking applications submitted for construction loans under this subsection, including, but not limited to, the following criteria:

1. The affordability of the housing proposed to be built.

2. The direct benefits of the assistance to the persons who will reside in the proposed housing.

3. The demonstrated capacity of the applicant to carry out the proposal, including the experience of the development team.

4. The economic feasibility of the proposal.

5. The extent to which the applicant demonstrates potential cost savings by combining the benefits of different governmental programs and private initiatives, including the local government contributions and local government comprehensive planning and activities that promote affordable housing.

6. The use of the least amount of program loan funds compared to overall project cost.

7. The provision of homeownership counseling.

8. The applicant's agreement to exceed the requirements of paragraph (e).

9. The commitment of first mortgage financing for the balance of the construction loan and for the permanent loans to the purchasers of the housing.

10. The applicant's ability to proceed with construction.

11. The targeting objectives of the corporation which will ensure an equitable distribution of loans between rural and urban areas.

12. The extent to which the proposal will further the purposes of this program.

(i) The corporation may reject any and all applications.

(j) The review committee established by corporation rule pursuant to this subsection shall make recommendations to the corporation board regarding program participation under this subsection. The corporation board shall make the final ranking for participation based on the scores received in the ranking, further review of the applications, and the recommendations of the review committee. The corporation board shall approve or reject applicants for loans and shall determine the tentative loan amount available to each program participant. The final loan amount shall be determined pursuant to rule adopted under s. 420.507(23)(h).

(3) The corporation shall publish a notice of fund availability in a publication of general circulation throughout the state at least 60 days prior to the anticipated availability of funds.

~~(4) During the first 9 months of fund availability:~~

~~(a) Sixty percent of the program funds shall be reserved for use by borrowers pursuant to s. 420.507(23)(a)1.;~~

~~(b) Twenty percent of the program funds shall be reserved for use by borrowers pursuant to s. 420.507(23)(a)2.; and~~

~~(c) Twenty percent of the program funds shall be reserved for use by borrowers pursuant to s. 420.507(23)(a)3.~~

~~If the application of these percentages would cause the reservation of program funds under paragraph (a) to be less than $1 million, the reservation for paragraph (a) shall be increased~~

~~to $1 million or all available funds, whichever amount is less, with the increase to be accomplished by reducing the reservation for paragraph (b) and, if necessary, paragraph (c).~~

Section 22. Florida Statutes s. 420.5095, Florida Statutes, is created to read:

420.5095 Community Workforce Housing Innovation Program.--

(1) The Community Workforce Housing Innovation Program is created for the purpose of providing regulatory incentives and state and local funds to promote local public-private partnerships and leverage government and private resources to provide affordable rental and single-family community workforce housing for essential services personnel with medium incomes in high-cost and high-growth counties in this state.

(2) The Florida Housing Finance Corporation shall be responsible for implementing and creating an incentive program for the Community Workforce Housing Innovation Program by providing financial and regulatory incentives to the public and private sectors to develop and finance innovative rental and home-ownership housing solutions to meet the needs of eligible Floridians. The corporation shall utilize the State Housing Initiatives Partnership, governed by ss. 420.907-420.9079 for assistance with administration of this program.

(3) The corporation shall develop selection criteria by rule for requests for proposal to provide funding for multifamily rental or single-family community workforce housing innovation projects in targeted high-cost and high-growth counties or areas of critical state concern. The corporation shall provide incentives for local governments in these counties to use local affordable housing State Housing Initiatives Partnership Program funds under s. 420.9072, Florida Statutes,

for meeting the affordable housing needs of persons eligible under this program.

(4) The Community Workforce Housing Innovation Program projects shall target:

(a) "High-cost counties" are defined as those counties in which the median purchase price of a single-family home is above the state median purchase price of a single-family home, and areas of critical state concern designated under s. 380.05, Florida Statutes, for which the Legislature has declared its intent to provide affordable housing. The Florida Housing Finance Corporation shall develop the list of high-cost counties on an annual basis.

(b) "High-growth counties" are those that demonstrate significantly high rates of growth in K - 12 public school students and a substantial number of open teaching positions currently and projected for the next school year. To qualify under these criteria of high-growth and need to fill public school teaching positions, a county's school district must have been in the top 10 school districts in the state for the fastest student population growth as a percentage rate of increase for the previous five years, as defined by the Department of Education. Counties whose school district have the greatest number of teaching position vacancies shall be prioritized.

(b) Project partnerships that include substantial involvement of public sector entities, such as local municipalities, counties, school districts, special districts, and other units of local government, and private sector entities that donate land or other tangible value worth at least 15 percent of the project value.

(c) Persons in households with income levels of up to 150 percent of the area median income, adjusted for household size in prioritized areas included in this subsection or a higher adjusted median income percentage in areas of critical state concern.

(d) Persons in need of affordable housing who are employed in areas in which they are considered essential services personnel, such as teachers and educators, police and fire personnel, and health care personnel, and in other job categories in which the personnel are defined as essential services personnel within the annual local State Housing Initiatives Partnership Program under s. 420.9072, Florida Statutes.

(e) Innovative projects that include new construction or rehabilitation of existing housing, mixed-income housing, or commercial and housing mixed-use elements.

(5) The Community Workforce Housing Innovation Program shall supplement and not supplant the existing affordable housing programs funded under chapter 420, Florida Statutes.

(6) On an annual basis, the corporation shall review the success of the Community Workforce Housing Innovation Program to determine how the program supports traditional affordable housing programs as defined in chapter 420, Florida Statutes, and to ascertain whether the program is meeting the housing needs of high-cost and high-growth counties. The corporation shall submit any recommendations for strengthening the program to the Governor, the Speaker of the House of Representatives, and the President of the Senate by January 1 of each year.

(7) On an annual basis, the corporation shall review ways to improve public and private sector incentives and barriers to affordable and community workforce housing and make any

recommendations necessary to improve these incentives in a report to the Governor, the Speaker of the House of Representatives, and the President of the Senate by January 1 of each year. The corporation may request the assistance of the Department of Community Affairs or the Affordable Housing Study Commission in these efforts.

(8)(a) Applicants whose projects are approved or funded by the Community Workforce Housing Innovation Program as Community Workforce Housing Innovation Program projects shall be eligible for the following workforce housing incentives to ensure the financial viability, successful development, and ongoing maintenance of these housing developments:

1. The processing of approvals of development orders or development permits, as defined in s. 163.3164(7) and (8), Florida Statutes, for affordable housing projects shall be expedited to a greater degree than other projects.

2. Impact fees shall be reduced by 50 percent or may be waived entirely by the local governments, or applicants shall be provided with an alternative method of fee payment.

3. Increased density levels of up to 16 units or higher density per acre shall be allowed, except in coastal high-hazard areas, if approved by the local government, for community workforce housing.

4. The infrastructure capacity in the local comprehensive plan for affordable housing shall be reserved for these communities.

5. Additional affordable residential units in residential zoning districts shall be allowed.

6. Open space and setback requirements for affordable housing shall be reduced by 50 percent.

7. Zero-lot-line configurations shall be allowed.

8. Traffic concurrency requirements shall be modified or reduced by up to 25 percent.

9. Local transportation infrastructure funding shall have priority eligibility from metropolitan planning organizations.

(b) The regulatory incentives for approved Community Workforce Housing Innovation Program projects shall be considered acceptable by the respective local government maintaining jurisdiction over the site of the project, if:

1. The applicant receives a letter of support from the local government for the project application submitted to the corporation; or

2. Within 60 days after receipt of the applicant's plan by the local government, no formal vote is taken by that body to object to the project.

However, if that local government entity votes not to accept the Community Workforce Housing Innovation Program project in its county, the corporation shall remove the application from the project approval list.

(9) Subject to the availability of funds appropriated by the Legislature to fund the Community Workforce Housing Innovation Program, the Florida Housing Finance Corporation shall have the authority to provide Community Workforce Housing Innovation Program grants to an applicant for construction or rehabilitation of rental or single-family community workforce housing, provided the sponsor of such appropriation:

(a) Sets aside at least 80 percent of the units for eligible persons whose household income does not exceed 150 percent of the adjusted local median income;

(b) Sets aside at least 50 percent of the units as prioritized for households whose family members are employed in

areas deemed essential public service, such as education, health care, and other areas defined by the local community in its State Housing Initiatives Partnership Program plan. Such projects shall identify sales and leasing strategies to accomplish this set-aside priority for essential services personnel as well as alternative strategies to sell or lease units to other qualified individuals if essential services personnel are not immediately available or qualified for the units;

(c) For rental projects, limits rents to no more than 40 percent of the maximum household income adjusted to unit size; or

(d) For home ownership, limits the sales price to the price for which an eligible applicant at 150 percent of the median income may qualify.

(10) The corporation shall issue a request for proposals to solicit applications for program approval and grants offered under this section and shall establish a funding process to distribute annually appropriated funds under this section. The corporation may approve a project under this program that does not require grant funding as long as the project proves it financial viability. Grant funding shall be based on demonstrated financial need of the project. The corporation shall prioritize projects in those high-cost counties with the highest real estate cost burdens for housing, including those counties with designated areas of critical state concern and those counties with the highest median price of single-family homes. The Corporation shall also approve and fund projects in one high-growth county. As an annual goal, the Corporation shall seek to achieve a 70 percent high-cost, 30 percent high-growth ratio in its approval and funding of projects.

(11) All eligible applications shall:

(a) Demonstrate that the program applicant consists of a public-private partnership of at least one local government or special district public entity and one private not-for-profit or for-profit development partner.

(b) Demonstrate how the applicant will use the regulatory incentives outlined in subsection (8) of section 1 and include, if available, any letters of support from the local government partner for the incentives.

(c) Demonstrate that the applicant possesses title to or firm site control of land and evidences availability of required infrastructure.

(d) Provide any research or facts available supporting the demand and need for rental or home ownership workforce housing for qualified workforce residents in the county in which the project is proposed.

(e) Have grants, donations of land, or contributions from other sources collectively totaling at least 15 percent of the total development cost. Such grants, donations of land, or contributions must only be evidenced by a letter of commitment at the time of application.

(f) Demonstrate accessibility to commercial businesses, services, and employment opportunities needed to serve the needs of the residents or include a viable plan to provide transportation access to those commercial businesses, services, and jobs.

(g) Demonstrate a marketing and sales plan to ensure that residents fit the income requirements and workforce employment demand for essential services.

(h) Provide a viable pro forma financial statement for the development costs and revenues for the project.

(12) The corporation shall establish a review committee composed of staff of the corporation and shall establish a scoring system for evaluation and competitive ranking of applications submitted to the program.

(13) The corporation shall develop evaluation and ranking criteria that use the eligibility criteria of subsection (3) and emphasize the following: innovative planning concepts, innovative building design, local government participation, public-private partnerships, the ability to proceed with construction, the feasibility and economic viability of the project, the applicant's affordable housing development and management experience, the ability to meet essential service personnel needs, a management plan to attract, serve, and keep eligible workforce tenants and ensure the long-term affordability of the rental or ownership units, and the quality of project design.

(14) The corporation shall develop rules and procedures for the awarding and accountability of Community Workforce Housing Innovation Program grants and approvals to selected applicants. Grants may be used with other corporation and private-sector resources. The proceeds of all grants shall be used for new construction or substantial rehabilitation that creates affordable, safe, and sanitary rental or ownership workforce housing units. The corporation shall expedite the review, evaluation, and awarding of program grants.

(15) If a default on a grant occurs, the corporation may foreclose on any mortgage or security interest or commence any legal action to protect the interest of the corporation and recover the amount of the grant principal, accrued interest, and fees. The corporation may acquire real or personal property or any interest in such property when that acquisition is necessary

or appropriate to protect any grant or sell, transfer, and convey any such property to a buyer without regard to the provisions of chapters 253 and 270, Florida Statutes.

(16) The corporation shall develop and implement a Community Workforce Housing Innovation Program down payment assistance program with available funds consistent with all the requisite financial guidelines to meet the needs of eligible individuals to purchase workforce housing. The corporation shall encourage local governments to accomplish the same goals through their housing assistance plans provided in s. 420.9075, Florida Statutes.

(17)(a) The corporation shall develop recommendations for increasing the development of innovative affordable home ownership projects serving very low, low, and moderate income residents in Florida, which may including expansion of support for non-profit home builders, such as Habitat for Humanity and other charitable housing organizations, Public Housing Authorities, and for profit housing developers. Recommendations shall assess the value of public-private partnerships, increased local and state funding for non-profit housing organizations, and the possible conversion of existing affordable multifamily rental apartments to affordable home ownership units for projects in high-cost counties and counties with areas designated as areas of critical state concern. Recommendations shall examine how to guarantee long term affordability for home ownership and an affordable home ownership purchase price

(18) The corporation shall require all program applicants to obtain and document local public input on the proposed project. The corporation shall establish criteria for what local public input the applicants shall be required to obtain.

Section 23. Paragraph (a) of subsection (4) of section 420.9075, Florida Statutes, is amended to read:

420.9075 Local housing assistance plans; partnerships.--

(4) The following criteria apply to awards made to eligible sponsors or eligible persons for the purpose of providing eligible housing:

(a) At least 65 percent of the funds made available in each county and eligible municipality from the local housing distribution must be reserved for home ownership for eligible persons with at least one third of those funds going to home ownership for very low income persons.

If both an award under the local housing assistance plan and federal low-income housing tax credits are used to assist a project and there is a conflict between the criteria prescribed in this subsection and the requirements of s. 42 of the Internal Revenue Code of 1986, as amended, the county or eligible municipality may resolve the conflict by giving precedence to the requirements of s. 42 of the Internal Revenue Code of 1986, as amended, in lieu of following the criteria prescribed in this subsection with the exception of paragraphs (a) and (d) of this subsection.

Section 24. Subsection (4), subsection (5), subsection (6), subsection (7), subsection (8), subsection (9), subsection (10), subsection (11), and subsection (12) of section 420.9075, Florida Statutes, are amended to read:

420.9075 Local housing assistance plans; partnerships.--

(4) The following criteria apply to awards made to eligible sponsors or eligible persons for the purpose of providing eligible housing:

(a) At least 65 percent of the funds made available in each county and eligible municipality from the local housing distribution must be reserved for home ownership for eligible persons with at least one third of those funds going to home ownership for very low income persons.

If both an award under the local housing assistance plan and federal low-income housing tax credits are used to assist a project and there is a conflict between the criteria prescribed in this subsection and the requirements of s. 42 of the Internal Revenue Code of 1986, as amended, the county or eligible municipality may resolve the conflict by giving precedence to the requirements of s. 42 of the Internal Revenue Code of 1986, as amended, in lieu of following the criteria prescribed in this subsection with the exception of paragraphs (a) and (d) of this subsection.

(5) In order to assist in the recruitment and retention of essential service personnel such as teachers and educators, police and fire personnel, health care personnel, skilled building trades personnel and other job categories in which the personnel are defined as essential services personnel within the annual local State Housing Initiatives Partnership Program under s. 420.9072, Florida Statutes as defined in s. 420.5059(4)(d), the following shall be included in the local housing assistance plan:

(a) Down payment assistance shall be provided to an eligible person who meets the following criteria, in addition to other requirements of the plan. The person:

1. Shall be employed full time in an essential service occupation or skilled building trade.

2. Shall declare his or her homestead and maintain residency at his or her homestead.

3. Shall demonstrate a 5-year minimum commitment to continued employment in an essential service occupation or skilled building trade within the county of current employment.

(b) Compliance with the eligibility criteria established under this subsection shall be verified during the life of the loan by the county or eligible municipality.

(c) The program shall provide down payment assistance in an amount to be determined by rule, not to exceed 25 percent of purchase price, if the county or eligible municipality within which an eligible recipient is employed provides funding through the State Housing Initiatives Partnership Program to the eligible recipient under ss. 420.907-420.9079, whether solely or in conjunction with a local housing finance agency or a private sector partner.

(d) Any lien on the recipient's property securing the assistance provided under this subsection shall be released if the recipient fulfills the 5-year commitment specified in subparagraph (a)3.

(e) Each county and each eligible municipality is encouraged to develop an element within its local housing assistance plan that emphasizes the recruitment and retention of essential service personnel and persons skilled in the building trades.

(f) Notwithstanding the distribution formula in s. 420.9073, the corporation is authorized to allocate funds to implement this subsection and may allocate funds to projects that are regional or statewide in scope.

(g) The corporation is authorized to make rules to implement this subsection, including, but not limited to, the

allocation of funds and selection of projects for funding under this subsection.

(6) ~~(5)~~ Each county or eligible municipality receiving local housing distribution moneys shall establish and maintain a local housing assistance trust fund. All moneys of a county or an eligible municipality received from its share of the local housing distribution, program income, recaptured funds, and other funds received or budgeted to implement the local housing assistance plan shall be deposited into the trust fund; however, local housing distribution moneys used to match federal HOME program moneys may be repaid to the HOME program fund if required by federal law or regulations. Expenditures other than for the administration and implementation of the local housing assistance plan may not be made from the fund.

(7) ~~(6)~~ The moneys deposited in the local housing assistance trust fund shall be used to administer and implement the local housing assistance plan. The cost of administering the plan may not exceed 5 percent of the local housing distribution moneys and program income deposited into the trust fund. A county or an eligible municipality may not exceed the 5-percent limitation on administrative costs, unless its governing body finds, by resolution, that 5 percent of the local housing distribution plus 5 percent of program income is insufficient to adequately pay the necessary costs of administering the local housing assistance plan. The cost of administering the program may not exceed 10 percent of the local housing distribution plus 5 percent of program income deposited into the trust fund, except that small counties, as defined in s. 120.52(17), and eligible municipalities receiving a local housing distribution of up to $350,000 may use up to 10 percent of program income for administrative costs.

(8) ~~(7)~~ Pursuant to s. 420.531, the corporation shall provide technical assistance to local governments regarding the creation of partnerships, the design of local housing assistance strategies, the implementation of local housing incentive strategies, and the provision of support services.

(9) ~~(8)~~ The corporation shall monitor the activities of local governments to determine compliance with program requirements and shall collect data on the operation and achievements of housing partnerships.

(10) ~~(9)~~ Each county or eligible municipality shall submit to the corporation by September 15 of each year a report of its affordable housing programs and accomplishments through June 30 immediately preceding submittal of the report. The report shall be certified as accurate and complete by the local government's chief elected official or his or her designee. Transmittal of the annual report by a county's or eligible municipality's chief elected official, or his or her designee, certifies that the local housing incentive strategies, or, if applicable, the local housing incentive plan, have been implemented or are in the process of being implemented pursuant to the adopted schedule for implementation. The report must include, but is not limited to:

(a) The number of households served by income category, age, family size, and race, and data regarding any special needs populations such as farmworkers, homeless persons, and the elderly. Counties shall report this information separately for households served in the unincorporated area and each municipality within the county.

(b) The number of units and the average cost of producing units under each local housing assistance strategy.

(c) The average area purchase price of single-family units and the amount of rent charged for a rental unit based on unit size.

(d) By income category, the number of mortgages made, the average mortgage amount, and the rate of default.

(e) A description of the status of implementation of each local housing incentive strategy, or if applicable, the local housing incentive plan as set forth in the local government's adopted schedule for implementation.

(f) A concise description of the support services that are available to the residents of affordable housing provided by local programs.

(g) The sales price or value of housing produced and an accounting of what percentage was financed by the local housing distribution, other public moneys, and private resources.

(h) Such other data or affordable housing accomplishments considered significant by the reporting county or eligible municipality.

(11) ~~(10)~~ The report shall be made available by the county or eligible municipality for public inspection and comment prior to certifying the report and transmitting it to the corporation. The county or eligible municipality shall provide notice of the availability of the proposed report and solicit public comment. The notice must state the public place where a copy of the proposed report can be obtained by interested persons. Members of the public may submit written comments on the report to the county or eligible municipality and the corporation. Written public comments shall identify the author by name, address, and interest affected. The county or eligible municipality shall attach a copy of all such written comments and its responses to the annual report submitted to the corporation.

(12) ~~(11)~~ The corporation shall review the report of each county or eligible municipality and any written comments from the public and include any comments concerning the effectiveness of local programs in the report required by s. 420.511.

(13) ~~(12)~~(a) If, as a result of the review of the annual report or public comment and written response from the county or eligible municipality, or at any other time, the corporation determines that a county or eligible municipality may have established a pattern of violation of the criteria for a local housing assistance plan established under ss. 420.907-420.9079 or that an eligible sponsor or eligible person has violated the applicable award conditions, the corporation shall report such pattern of violation of criteria or violation of award conditions to its compliance monitoring agent and the Executive Office of the Governor. The corporation's compliance monitoring agent must determine within 60 days whether the county or eligible municipality has violated program criteria and shall issue a written report thereon. If a violation has occurred, the distribution of program funds to the county or eligible municipality must be suspended until the violation is corrected.

(b) If, as a result of its review of the annual report, the corporation determines that a county or eligible municipality has failed to implement a local housing incentive strategy, or, if applicable, a local housing incentive plan, it shall send a notice of termination of the local government's share of the local housing distribution by certified mail to the affected county or eligible municipality.

1. The notice must specify a date of termination of the funding if the affected county or eligible municipality does not implement the plan or strategy and provide for a local response. A county or eligible municipality shall respond to the

corporation within 30 days after receipt of the notice of termination.

2. The corporation shall consider the local response that extenuating circumstances precluded implementation and grant an extension to the timeframe for implementation. Such an extension shall be made in the form of an extension agreement that provides a timeframe for implementation. The chief elected official of a county or eligible municipality or his or her designee shall have the authority to enter into the agreement on behalf of the local government.

3. If the county or the eligible municipality has not implemented the incentive strategy or entered into an extension agreement by the termination date specified in the notice, the local housing distribution share terminates, and any uncommitted local housing distribution funds held by the affected county or eligible municipality in its local housing assistance trust fund shall be transferred to the Local Government Housing Trust Fund to the credit of the corporation to administer pursuant to s. 420.9078.

4.a. If the affected local government fails to meet the timeframes specified in the agreement, the corporation shall terminate funds. The corporation shall send a notice of termination of the local government's share of the local housing distribution by certified mail to the affected local government. The notice shall specify the termination date, and any uncommitted funds held by the affected local government shall be transferred to the Local Government Housing Trust Fund to the credit of the corporation to administer pursuant to s. 420.9078.

b. If the corporation terminates funds to a county, but an eligible municipality receiving a local housing distribution pursuant to an interlocal agreement maintains compliance with

program requirements, the corporation shall thereafter distribute directly to the participating eligible municipality its share calculated in the manner provided in s. 420.9072.

c. Any county or eligible municipality whose local distribution share has been terminated may subsequently elect to receive directly its local distribution share by adopting the ordinance, resolution, and local housing assistance plan in the manner and according to the procedures provided in ss. 420.907-420.9079.

Section 25. Subsection (6) of section 420.9076, Florida Statutes, is amended to read:

420.9076 Adoption of affordable housing incentive strategies; committees.--

(6) Within 90 days after the date of receipt of the local housing incentive strategies recommendations from the advisory committee, the governing body of the appointing local government shall adopt an amendment to its local housing assistance plan to incorporate the local housing incentive strategies it will implement within its jurisdiction. The amendment must include, at a minimum, the local housing incentive strategies as defined in s. **420.9076(4)(a) through (j)** ~~420.9071(16)~~.

Section 26. Subsection (2) of section 420.9079, Florida Statutes, is amended to read:

420.9079 Local Government Housing Trust Fund.--

(2) The corporation shall administer the fund exclusively for the purpose of implementing the programs described in ss. 420.907-420.9078 and this section. With the exception of monitoring the activities of counties and eligible municipalities to determine local compliance with program requirements, the corporation shall not receive appropriations from the fund for administrative or personnel costs. For the

purpose of implementing the compliance monitoring provisions of s. 420.9075(8), the corporation may request a maximum of one quarter of one percent of the annual appropriation ~~$200,000~~ per state fiscal year. When such funding is appropriated, the corporation shall deduct the amount appropriated prior to calculating the local housing distribution pursuant to ss. 420.9072 and 420.9073.

Section 27. Paragraph (c) of subsection (1) and paragraph (e) of subsection (2) and of section 624.5105, Florida Statutes, are amended to read:

624.5105 Community contribution tax credit; authorization; limitations; eligibility and application requirements; administration; definitions; expiration.--

(1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--

(c) The total amount of tax credit which may be granted for all programs approved under this section and ss. 212.08(5)(q) and 220.183 is $10 ~~$12~~ million annually for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) and $3 million annually for all other projects.

(2) ELIGIBILITY REQUIREMENTS.--

(e) ~~1. For the first 6 months of the fiscal year, the Office of Tourism, Trade, and Economic Development shall reserve 80 percent of the first $10 million in available annual tax credits, and 70 percent of any available annual tax credits in excess of $10 million, for donations made to eligible sponsors for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28). If any such reserved annual tax credits remain after the first 6 months of the fiscal year, the office may approve the balance of these available credits for donations~~

~~made to eligible sponsors for projects other than those that provide homeownership opportunities for low-income or very-low-income households.~~

~~2. For the first 6 months of the fiscal year, the office shall reserve 20 percent of the first $10 million in available annual tax credits, and 30 percent of any available annual tax credits in excess of $10 million, for donations made to eligible sponsors for projects other than those that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28). If any reserved annual tax credits remain after the first 6 months of the fiscal year, the office may approve the balance of these available credits for donations made to eligible sponsors for projects that provide homeownership opportunities for low-income or very-low-income households.~~

1.~~3.~~ If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for less than the ~~available~~ annual tax credits available for those projects ~~reserved under subparagraph 1.~~, the office shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-served basis for any subsequent eligible applications received before the end of the ~~first 6 months of the~~ state fiscal year. If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for more than the ~~available~~ annual tax credits available for those projects

~~reserved under subparagraph 1.~~, the office shall grant the tax credits for those ~~the~~ applications as follows:

a. If tax credit applications submitted for approved projects of an eligible sponsor do not exceed $200,000 in total, the credits shall be granted in full if the tax credit applications are approved~~, subject to subparagraph 1~~.

b. If tax credit applications submitted for approved projects of an eligible sponsor exceed $200,000 in total, the amount of tax credits granted under sub-subparagraph a. shall be subtracted from the amount of available tax credits ~~under subparagraph 1.~~, and the remaining credits shall be granted to each approved tax credit application on a pro rata basis.

~~c. If, after the first 6 months of the fiscal year, additional credits become available under subparagraph 2., the office shall grant the tax credits by first granting to those who received a pro rata reduction up to the full amount of their request and, if there are remaining credits, granting credits to those who applied on or after the 11th business day of the state fiscal year on a first-come, first-served basis.~~

2.~~4.~~ If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects other than those that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for less than the ~~available~~ annual tax credits available for those projects ~~reserved under subparagraph 2.~~, the office shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-served basis for any subsequent eligible applications received before the end of the ~~first 6 months of the~~ state fiscal year. If, during the first 10 business days of the state fiscal year, eligible tax credit applications for

projects other than those that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for more than the ~~available~~ annual tax credits available for those projects ~~reserved under subparagraph 2.~~, the office shall grant the tax credits for those ~~the~~ applications on a pro rata basis. ~~If, after the first 6 months of the fiscal year, additional credits become available under subparagraph 1., the office shall grant the tax credits by first granting to those who received a pro rata reduction up to the full amount of their request and, if there are remaining credits, granting credits to those who applied on or after the 11th business day of the state fiscal year on a first-come, first-served basis.~~

Section 28. Paragraph (b) of subsection (9) of section 1001.42, Florida Statutes, is amended to read:

1001.42 Powers and duties of district school board.--The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

(9) SCHOOL PLANT.--Approve plans for locating, planning, constructing, sanitating, insuring, maintaining, protecting, and condemning school property as prescribed in chapter 1013 and as follows:

(b) Sites, buildings, and equipment.--

1. Select and purchase school sites, playgrounds, and recreational areas located at centers at which schools are to be constructed, of adequate size to meet the needs of projected students to be accommodated.

2. Approve the proposed purchase of any site, playground, or recreational area for which district funds are to be used.

3. Expand existing sites.

4. Rent buildings when necessary.

5. Enter into leases or lease-purchase arrangements, in accordance with the requirements and conditions provided in s. 1013.15(2), with private individuals or corporations for the rental of necessary grounds and educational facilities for school purposes or of educational facilities to be erected for school purposes. Current or other funds authorized by law may be used to make payments under a lease-purchase agreement. Notwithstanding any other statutes, if the rental is to be paid from funds received from ad valorem taxation and the agreement is for a period greater than 12 months, an approving referendum must be held. The provisions of such contracts, including building plans, shall be subject to approval by the Department of Education, and no such contract shall be entered into without such approval. As used in this section, "educational facilities" means the buildings and equipment that are built, installed, or established to serve educational purposes and that may lawfully be used. The State Board of Education may adopt such rules as are necessary to implement these provisions.

6. Provide for the proper supervision of construction.

7. Make or contract for additions, alterations, and repairs on buildings and other school properties.

8. Ensure that all plans and specifications for buildings provide adequately for the safety and well-being of students, as well as for economy of construction.

9. Provide affordable housing for teachers an other instructional personnel independently or in conjunction with other agencies as described in s. 1001.43(5).

Section 29. The sum of $20 million is appropriated from the State Housing Trust Fund to the Florida Housing Finance Corporation for the 2006-2007 fiscal year to provide funds to teachers eligible for affordable housing pursuant to s. 420.5088

or s. 420.5089, Florida Statutes, and to assist in teacher retention and recruitment as a response to the state's teacher shortage.

Section 30. The Florida Housing Finance Corporation may adopt rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, as necessary to implement the provisions of ~~section 6 of~~ this act.

Section 31. There is hereby appropriated from the Local Government Housing Trust Fund the sum of thirty-two million dollars, the the Florida Housing Finance Corporation, to assist in production of housing units for extremely low income persons.

Section 32. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2006.

========== T I T L E A M E N D M E N T ==========

Remove the entire title and insert:

An act relating to affordable housing; creating s. 125.379, F.S.; providing for disposition of county property for affordable housing; amending s. 163.3187(1)(c), F.S.; deleting a requirement; creating s. 166.0451, F.S.; providing for disposition of municipal property for affordable housing; amending s. 189.4155, F.S.; authorizing independent special districts to provide for employee housing assistance; amending 191.006, F.S.; amends powers of independent special districts; amends 193.017, F.S.; authorizes the Florida Housing Finance Corporation and the Department of Revenue to annually set the cap rate used for assessing just valuation of affordable housing properties; amending s. 196.1978, F.S.; providing for an affordable housing ad valorem property

exemption; creating s. 196.1980, F.S.; creates an affordable housing ad valorem property exemption; amending s. 201.15, F.S.; removing a cap on the State Housing Trust Fund; amending s. 212.08, F.S.; lowering the amount of total tax credits available for the provision of housing for low and very low income individuals; amending s. 220.183, F.S.; providing authorization to grant community contribution tax credits; amending s. 253.034, F.S.; providing for the disposition of state lands for affordable housing; amending s. 295.16, F.S.; expanding the disabled veteran exemption from certain license and permit fees; amending s. 380.06, F.S.; providing a greater substantial deviation threshold for the provision of affordable housing in a development of regional impact; amending s. 380.0651, F.S.; providing a statewide guidelines and standards bonus for the provision of affordable housing; amending s. 420.0004, F.S.; providing definition; repealing s. 420.37, F.S.; amending s. 420.503, F.S.; expanding the definition of "farmworker" and authorizing the Florida Housing Finance Corporation rulemaking; amending s. 420.507, F.S.; expanding the powers fo the Florida Housing Finance Corporation; amending s. 420.5087, F.S.; increasing the population criteria for the State Apartment Incentive Loan Program; revising criteria for loans; amending s. 420.5088, F.S.; expands the scope of the Florida Homeownership Assistance Program; creating s. 420.5095, F.S.; creating the Community Workforce Housing Innovation Program; amending s. 420.9075, F.S.; providing a percentage of funds for homeownership for very low income individuals; providing components to be included in the local housing assistance

plan; amending 420.9076, F.S.; adding a cross-reference; adjusting the maximum appropriation applicable to the Florida Housing Finance Corporation; amending s. 624.5105, F.S.; increasing the amount of available tax credits against the sales tax, corporate income tax, and insurance premium tax, respectively, for projects under the community contribution tax credit program and providing separate annual limitations for certain projects; revising requirements and procedures for the Office of Tourism, Trade, and Economic Development in granting tax credits under the program; amending s. 1001.42, F.S.; providing authority for school boards to provide affordable housing for teachers and instructional personnel; providing appropriations; providing for effective dates.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB** 1363

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Growth Management Committee

Representative(s) Johnson offered the following:

Amendment 1 to Strike-all Amendment by Representative Davis (with directory and title amendments)

Remove line(s) 1732-1736 and insert:

(f) When ownership of the land or property utilized for development in conjunction with the Community Workforce Housing Innovation Program grant is to be held by any public sector entity, as described in this section, the applicant may choose to use a nonprofit or public entity to manage the resulting housing program. The applicant must demonstrate that the management entity:

1. Have experience and proficiency in the management of affordable housing programs; and

2. Have regularly conducted independent audits; and

3. Have a publicly appointed oversight board of directors or commissioners; and

4. Have experience in the provision of resident programs and services, such as child care, transportation, and job training.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

Bill No. **HB** 1363

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Growth Management Committee

Representative(s) Johnson offered the following:

Amendment 2 to Strike-all Amendment by Representative Davis

Remove line(s) 327-358 and insert:

196.1980 "The Manny Diaz Affordable Housing Property Tax Relief Initiative" .--For the purpose of assessing just valuation of affordable housing properties serving persons with income limits defined as low, moderate, and very low, as specified in s. 420.0004(9), (10), and (14), the actual rental income from rent-restricted units in such a property shall be recognized by the property appraiser for assessment purposes, and an income approach shall be used for assessment of the rents for the following properties:

(1) property that is funded by the United States Department of Housing and Urban Development under s. 8 of the United States Housing Act of 1937, that is used to provide affordable housing serving eligible persons as defined by s. 159.603(7), and elderly and very-low-income persons as defined by s. 420.0004(7) and (14), and that has undergone financial restructuring as provided in s. 501, Title V, Subtitle A of the Multifamily Assisted Housing Reform and Affordability Act of 1997;

(2) multifamily, farmworker, or elderly rental properties that are funded by the Florida Housing Finance Corporation under ss. 420.5087 and 420.5089 and the State Housing Initatives Partnership Program under ss. 420.9072 and 420.9075, s. 42 of the Internal Revenue Code; the HOME Investment Partnership Program under the Cranston-Gonzalez National Affordable Housing Act, 42 U.S.C. s.12741 et seq.; or the Federal Home Loan Banks Affordable Housing Program established pursuant to the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law 101-73; or

(3) multi-family residential rental properties of ten (10) or more units that is certified by the local housing agency as having at least ninety-five percent (95%) of it's units providing affordable housing to very-low, low, and moderate income persons as defined by s. 420.0004(9), (0) and (14).

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GM 06-01 Growth Management
SPONSOR(S): Growth Management Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Growth Management Committee		Grayson	Grayson
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

PCB GM-06-01 is the glitch bill for CS/CS/CS SB 360 (2005), ch. 2005-290, L.O.F., the Act, relating to infrastructure planning and funding. The PCB:

- Conforms terminology to the phrase "proportionate fair-share mitigation."
- Corrects cross-references.
- Corrects, adjusts, or readdresses a number of funding issues as follows:
  - Non-recurring Strategic Intermodal System (SIS) Appropriation.
  - State Infrastructure Bank non-recurring transfer.
  - Classrooms for Kids appropriations recurring and non-recurring appropriations.
  - High Growth District Capital Outlay Assistance Grant Program recurring appropriation.
  - Century Commission for a Sustainable Florida recurring appropriation.
- Merges language into one provision relating to the public schools interlocal agreement.
- Provides that the "under actual-construction" requirement of transportation facility concurrency is met when construction funding needed is provided in the first 3 years of the Department of Transportation's (DOT) work plan.
- Requires DOT to publish and distribute, after public workshops, policy guidelines to assist local governments in planning to assess and mitigate impacts of proposed concurrency management areas.
- Provides a consequence for failure to timely adopt the local government proportionate fair-share mitigation methodology and to include it into its transportation concurrency management plan.
- Requires DOT to concur or withhold its concurrence, within 30 days, with the local government's plan for mitigation of impacts to the SIS from proposed transportation exception areas.
- Creates appropriations.

The PCB corrects and creates appropriations.

The PCB has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

PCB GM-06-01 addresses inadvertent errors and other glitches contained in ch. 2005-290, L.O.F., the growth management act of the 2005 Legislative Session.

Background

Ch. 2005-290, L.O.F.

The 2005 Legislature enacted ch. 2005-290, L.O.F. (CS/CS/CS SB 360), the Act, relating to infrastructure planning and funding. The Act was the subject of a conference committee during the last two days of the 2005 Session and was the last bill to pass both houses during the last hour of that Session. As a result, the Act contains a number of matters that may require correction or clarification.

Effect of Proposed Changes

Terminology for Proportionate Share

As outlined in the table below, the Act utilizes seven difference terms to refer to the concept of "proportionate fair-share mitigation." The Florida Department of Transportation utilized the phrase "proportionate fair-share mitigation" in their development of the model ordinance required in s. 163.3180(16(a), F.S., as a result of the Act. That phrase appears to best represent the concepts embodied in the Act.

Act Section	Statute Section	Term(s) Used
1	163.3164(32)	"proportionate share"
5	163.3180(13)(e)	"mitigation proportionate to" & "proportionate-share mitigation"
5	163.3180(13)(e)1	"proportionate – share mitigation"
5	163.3180(13)(e)2	"proportionate – share mitigation"
5	163.3180(13)(e)3	"proportionate – share mitigation"
	163.3180(16)	"proportionate fair – share mitigation"
5	163.3180(16)(a)	"proportionate fair – share mitigation"
5	163.3180(16)(b)1	"proportionate fair – share mitigation" & "proportionate fair – share contributions"
5	163.3180(16)(b)2	"proportionate fair-share mitigation"
5	163.3180(16)(c)	"proportionate fair – share mitigation" & "proportionate fair-share contribution"
5	163.3180(16)(f)	"proportionate share agreement" & "proportionate share"
17	380.06(24)(l), (m), & (n)	"proportionate share"

Cross-references

The Act contains a number of cross-references that are inaccurate and should be corrected as outlined below.

- Correction: In s. 163.3177(13)(c)4, F.S., the cross-reference to "subsection (2)" should be "subsection (14)".

  Explanation: The section addresses the topics which a local government must discuss as part of the workshops and public meetings for the development of a community vision. Specifically, this reference is to the designation of an urban service boundary, which is referred to in subsection (14), and not subsection (2).

- Correction: In s. 163.3180(13)(f)1., F.S., the citation to s. 163.31777(6) should be "163.31777."

  Explanation: Section 163.3180(13)(f)1., F.S., relates to an exception for municipalities from being a signatory to the public school interlocal agreement. The citation in question was intended to reference other provisions of the statute that established the requirement to enter into the interlocal agreement. The erroneous citation refers to an exemption from the public school interlocal agreement requirements; and should rather refer to the entire section itself, s. 163.31777, F.S.

- Correction: In s. 163.3180(16)(b)1., F.S., the citation to s. 163.164(32) should be "s. 163.3164(32)."

  Explanation: Section 163.164(32), F.S., does not exist. The citation was intended to refer to the definition of "financially feasible" which is found at s. 163.3164(32), F.S.

- Correction: In s. 163.3184(17), F.S., the citation to s. 163.31773(13) should be "s. 163.3177(13)."

  Explanation: Section 163.31773 does not exist. The reference is to a local government that has adopted a community vision and an urban service boundary. Section 163.3177(13) and (14), F.S., relate to community vision and urban service boundaries, respectively.

- Correction: In s. 339.2819(4)(a)2., F.S., the citation to s. 163.3177(9) should be "s. 163.3180(9)."

  Explanation: Section 339.2819(4)(a)2., F.S., relates to requirements for projects to be funded through the Transportation Regional Incentive Program. The citation in question was intended to relate to the statutory authority for a local government to implement a long-term concurrency management system. The erroneous citation, s. 163.3177(9) relates to adoption of minimum criteria for review and determination of compliance of local government plan elements. The correct citation, s. 163.3180(9), relates to long-term transportation and school concurrency management systems.

Funding Issues

The Act contains a number of appropriations and other funding matters that either do not represent the intent of the House of Representatives or otherwise need to be corrected, adjusted, or readdressed, as outlined below.

- Transportation Funding

  - Non-recurring Strategic Intermodal System (SIS) Appropriation - The Act appropriates $200 million for the 2005-2006 fiscal year to fund projects on the Strategic Intermodal System. The intended funding level was $175 million non-recurring to correspond with a one-time $175 million transfer. The bill makes this correction.

- SIB non-recurring transfer – The Act contains language relating to a recurring appropriation for State Infrastructure Bank (SIB) in addition to $100M non-recurring for SIB appropriated correctly for FY 2005-2006. The bill deletes that language found at s. 339.55(10), F.S.

- Education Funding
  - Classrooms for Kids appropriations – The Act contains a recurring appropriation for the Classrooms for Kids Program in the amount of $41.75 million. The Act also contains a $75 million dollar recurring transfer. The bill corrects the recurring appropriation to the intended level of $75 million. Additionally, the bill appropriates the nonrecurring sum of $33.35 million to account for the error in the FY 2005-2006 appropriation.

  - High Growth District Capital Outlay Assistance Grant Program - The Act contains a $30 million recurring appropriation for the High Growth District Capital Outlay Assistance Grant Program. The Governor vetoed this appropriation. The bill reappropriates the amount to support the grant program.

- Century Commission for a Sustainable Florida

  - Recurring appropriation - The Act contains both a non-recurring appropriation for FY 2005-2006 and a recurring transfer and appropriation of $250,000 for the Century Commission for a Sustainable Florida. The Governor vetoed the recurring appropriation. The bill reappropriates the recurring funding for this commission.

Public Schools Interlocal Agreement

The bill amends several sections of existing law to merge the requirements for the public schools interlocal agreement into s. 163.31777, F.S. This was undertaken in an effort to provide a single statutory source for these requirements. Specifically, requirements currently existing in ss. 163.3180(13)(g), 1013.33(2) and (3), F.S., are combined and revised into the s. 163.31777, F.S.

Concurrency

Transportation Facilities: The bill provides that if the construction funding needed for transportation facilities is provided in the first 3 years of the Department of Transportation's (DOT) work program, then the "under-actual-construction" requirement of s. 163.3180(2)(c), F.S., is satisfied.

Impacts to the Strategic Intermodal System

Transportation Concurrency Exception Areas: The bill provides that DOT must publish and distribute, after publicly noticed workshops, policy guidelines containing criteria and options to assist local government in planning to assess and mitigate impacts of a proposed concurrency exception area as described in ss. 163.3180(5)(f) and (7), F.S.

Required Adoption of a Proportionate Fair-Share Mitigation Methodology and Transportation Concurrency Management System

The bill provides a consequence for the failure of local government to timely adopt a methodology for assessing proportionate fair-share mitigation; and for failure to timely include its methodology into its transportation concurrency management system. The consequence provided is the inability to impose a transportation impact fee.

FDOT Comments on Proposed Transportation Concurrency Exception Areas

The Act provides that a local government proposing a transportation concurrency exception area must confer with the DOT regarding impacts to, and mitigation of impacts to, Strategic Intermodal System

(SIS) facilities. The bill provides that the DOT must concur or withhold its concurrence with the mitigation of development impacts to facilities on the SIS within 30 days of the date of submission.

C. SECTION DIRECTORY:

Section 1 - Amends s. 163.3164(32), F.S., correcting terminology.

Section 2 – Amends s. 163.31777(13)(c), F.S., correcting cross-reference.

Section 3 – Amends ss. 163.31777(1) – (4), F.S., relating to public schools interlocal agreements.

Section 4 – Amends ss. 163.3180(2)(f); (5); (7); (13)(e), (f), (g) and (h); (16)((a), (b), (c), (e), and (f), F.S., relating to concurrency.

Section 5 – Amends s. 163.3184(17), F.S., relating to adoption and amendment of comprehensive plans.

Section 6 – Amends s. 339.2819(4)(a), F.S., relating to the Transportation Regional Incentive Program.

Section 7 – Amends s. 339.55, F.S., relating to the state-funded infrastructure bank; and correcting an appropriations error.

Section 8 – Amends ss. 380.06(24)(l), (m) and (n), F.S., relating developments of regional impact; correcting terminology.

Section 9 – Amends ss. 1013.33(2), (3), and (12), F.S., relating to the coordination of school planning with local governments.

Section 10 – Amends s. 1013.65(2)(a), F.S., relating to the Public Education Capital Outlay and Debt Service Trust Fund; correcting an appropriation for the Classrooms for Kids Program.

Section 11 – Amends s. (2)(a) of s. 27 of ch. 2005-290, L.O.F., relating to appropriations.

Section 12 – Creates appropriations.

Section 13 - Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to have an impact on state revenues.

2. Expenditures:

   The bill contains appropriations as follows

   - Corrects non-recurring SIS appropriation from $200 million to $175 million.
   - Deletes s. 339.55(10), F.S., re recurring SIB appropriation.
   - Corrects the recurring Classroom for Kids appropriation from $41.75 to $75 million.
   - Creates a nonrecurring $33.35 million appropriation for Classrooms for Kids.
   - Creates a $30 million recurring appropriation for the High Growth District Capital Outlay Assistance Grant Program.

- Creates a recurring $250,000 appropriation for the Century Commission for a Sustainable Florida.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. The bill provides the potential for some local governments to benefit from appropriations to both the Classrooms for Kids Program and the High Growth County District Capital Outlay Assistance Program.

2. Expenditures:

Indeterminate. While the bill strengthens certain timing requirements for local government planning related activities, the requirement to undertake those activities exists in current law.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. The bill both strengthens the timing requirements for certain local government actions and appropriates funding which provides the potential for some local government benefits. Both of these features may result in either advancing or delaying local development activities depending upon specific local circumstances.

D. FISCAL COMMENTS:

Indeterminate at this time.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

The bill does not appear to raise any other constitutional issues.

B. RULE-MAKING AUTHORITY:

The bill contains no rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

A bill to be entitled

An act relating to growth management; amending s. 163.3164, F.S.; revising a definition; amending s. 163.3177, F.S.; correcting a cross reference; amending s. 163.31777, F.S.; revising requirements and procedures for public schools interlocal agreements; amending s. 163.3180, F.S.; revising concurrency requirements and procedures; amending ss. 163.3184, and 339.2819, F.S.; correcting cross-references; amending s. 339.55, F.S.; deleting an annual appropriation from the State Transportation Trust Fund for State Infrastructure Bank purposes; amending s. 380.06, F.S.; revising certain statutory exemption provisions for developments of regional impact; amending s. 1013.33, F.S.; revising requirement and procedures for coordination of planning with local governing bodies; amending s. 1013.65, F.S.; revising an appropriation from the Public Education Capital Outlay and Debt Service Trust Fund to the Classroom for Kids Program; amending s. 27, ch. 2005-290, Laws of Florida; revising an appropriation from the State Transportation Trust Fund for Florida Strategic Intermodal System purposes; providing appropriations; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (32) of section 163.3164, Florida Statutes, is amended to read:

163.3164 Local Government Comprehensive Planning and Land Development Regulation Act; definitions.--As used in this act:

(32) "Financial feasibility" means that sufficient revenues are currently available or will be available from committed funding sources for the first 3 years, or will be available from committed or planned funding sources for years 4 and 5, of a 5-year capital improvement schedule for financing capital improvements, such as ad valorem taxes, bonds, state and federal funds, tax revenues, impact fees, and developer contributions, which are adequate to fund the projected costs of the capital improvements identified in the comprehensive plan necessary to ensure that adopted level-of-service standards are achieved and maintained within the period covered by the 5-year schedule of capital improvements. The requirement that level-of-service standards be achieved and maintained shall not apply if the proportionate fair-share mitigation ~~proportionate-share~~ process set forth in s. 163.3180(12) and (16) is used.

Section 2. Paragraph (c) of subsection (13) of section 163.3177, Florida Statutes, is amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.--

(13) Local governments are encouraged to develop a community vision that provides for sustainable growth, recognizes its fiscal constraints, and protects its natural resources. At the request of a local government, the applicable regional planning council shall provide assistance in the development of a community vision.

(c) As part of the workshops and public meetings, the local government must discuss strategies for addressing the topics discussed under paragraph (b), including:

1. Strategies to preserve open space and environmentally sensitive lands, and to encourage a healthy agricultural economy, including innovative planning and development strategies, such as the transfer of development rights;

2. Incentives for mixed-use development, including increased height and intensity standards for buildings that provide residential use in combination with office or commercial space;

3. Incentives for workforce housing;

4. Designation of an urban service boundary pursuant to subsection (14) ~~(2)~~; and

5. Strategies to provide mobility within the community and to protect the Strategic Intermodal System, including the development of a transportation corridor management plan under s. 337.273.

Section 3. Subsections (1) through (4) of section 163.31777, Florida Statutes, are amended to read:

163.31777 Public schools interlocal agreement.--

(1)(a) The district school board, county, and nonexempt municipalities located within the geographic area of a school district shall enter into an interlocal agreement ~~with the district school board~~ which jointly establishes the specific ways in which the plans and processes of the district school board and the local governments are to be coordinated. ~~The interlocal agreements shall be submitted to the state land planning agency and the Office of Educational Facilities and the SMART Schools~~

~~Clearinghouse in accordance with a schedule published by the state land planning agency.~~

~~(b) The schedule must establish staggered due dates for submission of interlocal agreements that are executed by both the local government and the district school board, commencing on March 1, 2003, and concluding by December 1, 2004, and must set the same date for all governmental entities within a school district. However, if the county where the school district is located contains more than 20 municipalities, the state land planning agency may establish staggered due dates for the submission of interlocal agreements by these municipalities. The schedule must begin with those areas where both the number of districtwide capital-outlay full-time-equivalent students equals 80 percent or more of the current year's school capacity and the projected 5-year student growth is 1,000 or greater, or where the projected 5-year student growth rate is 10 percent or greater.~~

(b) ~~(c)~~ If the student population has declined over the 5-year period preceding the due date for submittal of an interlocal agreement by the local government and the district school board, the local government and the district school board may petition the state land planning agency for a waiver of one or more requirements of subsection (2). The waiver must be granted if the procedures called for in subsection (2) are unnecessary because of the school district's declining school age population, considering the district's 5-year facilities work program prepared pursuant to s. 1013.35. The state land planning agency may modify or revoke the waiver upon a finding that the conditions upon which the waiver was granted no longer exist. The district school board and local governments must submit an

interlocal agreement within 1 year after notification by the state land planning agency that the conditions for a waiver no longer exist.

(c) ~~(d) Interlocal agreements between local governments and district school boards adopted pursuant to s. 163.3177 before the effective date of this section must be updated and executed pursuant to the requirements of this section, if necessary. Amendments to interlocal agreements adopted pursuant to this section must be submitted to the state land planning agency within 30 days after execution by the parties for review consistent with this section.~~ Local governments and the district school board in each school district are encouraged to adopt a single updated interlocal agreement to which all join as parties. The state land planning agency shall assemble and make available model interlocal agreements meeting the requirements of this section and notify local governments and, jointly with the Department of Education, the district school boards of the requirements of this section, the dates for compliance, and the sanctions for noncompliance. The state land planning agency shall be available to informally review proposed interlocal agreements. If the state land planning agency has not received a proposed interlocal agreement for informal review, the state land planning agency shall, at least 60 days before the deadline for submission of the executed agreement, renotify the local government and the district school board of the upcoming deadline and the potential for sanctions.

(2) The interlocal agreement must acknowledge the school board's constitutional and statutory obligations to provide a uniform system of free public schools on a countywide basis and

the land use authority of local governments, including the authority to approve or deny comprehensive plan amendments and development orders. ~~At a minimum,~~ The interlocal agreement must ~~address interlocal-agreement requirements in s. 163.3180(13)(g), except for exempt local governments as provided in s. 163.3177(12), and must~~ address the following issues:

(a) Mechanisms for coordinating the development, adoption, and amendment of each local government's public school facilities element with each other local government that is a party to the agreements and the plans of the school board to ensure a uniform districtwide school concurrency system.

(b) A process for developing siting criteria that encourages the location of public schools proximate to urban residential areas to the extent possible and seeks to collocate schools with other public facilities, including, but not limited to, parks, libraries, and community centers to the extent possible.

(c) Uniform, districtwide, level-of-service standards for public schools of the same type and a process for modifying adopted levels-of-service standards.

(d) A process for establishing a financially feasible public school capital facilities program and a process and schedule for incorporation of the public school capital facilities program into the local government comprehensive plans on an annual basis.

(e) If school concurrency is to be applied on a less than districtwide basis in the form of concurrency service areas, criteria and standards for the establishment and modification of school concurrency service areas. The agreement must also

establish a process and schedule for the mandatory incorporation of the school concurrency service areas and the criteria and standards for establishment of the service areas into the local government comprehensive plans. The agreement must ensure maximum use of school capacity, taking into account transportation costs and court-approved desegregation plans, and other applicable factors.

(f) A uniform districtwide procedure for implementing school concurrency that provides for:

1. Evaluation of development applications for compliance with school concurrency requirements, including, but not limited to, information provided by the school board on affected schools.

2. Monitoring and evaluation of the school concurrency system.

(g) A process and uniform methodology for determining proportionate fair-share mitigation pursuant to s. 380.06.

(h) ~~(a)~~ A process by which each local government and the district school board agree and base their plans on consistent projections of the amount, type, and distribution of population growth and student enrollment. The geographic distribution of jurisdiction-wide growth forecasts is a major objective of the process.

(i) ~~(b)~~ A process to coordinate and share information relating to existing and planned public school facilities, including school renovations and closures, and local government plans for development and redevelopment.

(j) ~~(c)~~ Participation by affected local governments with the district school board in the process of evaluating potential school closures, significant renovations to existing schools, and

new school site selection before land acquisition. Local governments shall advise the district school board as to the consistency of the proposed closure, renovation, or new site with the local comprehensive plan, including appropriate circumstances and criteria under which a district school board may request an amendment to the comprehensive plan for school siting.

(k) ~~(d)~~ A process for determining the need for and timing of onsite and offsite improvements to support new, proposed expansion, or redevelopment of existing schools. The process must address identification of the party or parties responsible for the improvements.

~~(e) A process for the school board to inform the local government regarding the effect of comprehensive plan amendments on school capacity. The capacity reporting must be consistent with laws and rules relating to measurement of school facility capacity and must also identify how the district school board will meet the public school demand based on the facilities work program adopted pursuant to s. 1013.35.~~

(l) ~~(f)~~ Participation of the local governments in the preparation of the annual update to the district school board's 5-year district facilities work program and educational plant survey prepared pursuant to s. 1013.35.

(m) ~~(g)~~ A process for determining where and how joint use of either school board or local government facilities can be shared for mutual benefit and efficiency.

(n) ~~(h)~~ A procedure for the resolution of disputes between the district school board and local governments, which may include the dispute resolution processes contained in chapters 164 and 186.

(o) ~~(i)~~ An oversight process, including an opportunity for public participation, for the implementation of the interlocal agreement.

(p) A process for development of a public school facilities element pursuant to s. 163.3177(12).

(q) Provisions for siting and modification or enhancements to existing school facilities so as to encourage urban infill and redevelopment.

(r) A process for the use and conversion of historic school facilities that are no longer suitable for educational purposes, as determined by the district school board.

(s) A process for informing the local government regarding the effect of comprehensive plan amendments and rezonings on school capacity. The capacity reporting must be consistent with laws and rules relating to measurement of school facility capacity and must also identify how the district school board will meet the public school demand based on the facilities work program adopted pursuant to s. 1013.35.

(t) A process to ensure an opportunity for the school board to review and comment on the effect of comprehensive plan amendments and rezonings on the public school facilities plan.

For those local governments that receive a waiver pursuant to s. 163.3177(1), the interlocal agreement shall not include the issues provided for in paragraphs (a), (c), (d), (e), (f), (g), and (p). For counties or municipalities that do not have a public school interlocal agreement or public school facility element, the assessment shall determine whether the local government continues to meet the criteria of s. 163.3177(12). If a county or

municipality determines that it no longer meets the criteria, the county or municipality must adopt appropriate school concurrency goals, objectives, and policies in its plan amendments pursuant to the requirements of the public school facility element and enter into the existing interlocal agreement required by this section and s. 173.3177(6)(h)2. in order to fully participate in the school concurrency system.

(3)~~(a)~~ The updated interlocal agreement adopted pursuant to the schedule adopted in accordance with s. 163.3177(12)(i) and any subsequent amendments must be submitted to the state land planning agency and the Office of Educational Facilities within 30 days after execution by the parties to the agreement for review consistent with this section. The office ~~and SMART Schools Clearinghouse~~ shall submit any comments or concerns regarding the executed interlocal agreement or agreement amendments to the state land planning agency within 30 days after receipt of the executed interlocal agreement or agreement amendments. The state land planning agency shall review the updated executed interlocal agreement or agreement amendments to determine whether it is consistent with the requirements of subsection (2), the adopted local government comprehensive plan, and other requirements of law. Within 60 days after receipt of an updated executed interlocal agreement or agreement amendments, the state land planning agency shall publish a notice on the agency's Internet website that states ~~of intent in the Florida Administrative Weekly and shall post a copy of the notice on the agency's Internet site. The notice of intent must state~~ whether the interlocal agreement is consistent or inconsistent with the

requirements of subsection (2) and this subsection, as appropriate.

~~(b) The state land planning agency's notice is subject to challenge under chapter 120; however, an affected person, as defined in s. 163.3184(1)(a), has standing to initiate the administrative proceeding, and this proceeding is the sole means available to challenge the consistency of an interlocal agreement required by this section with the criteria contained in subsection (2) and this subsection. In order to have standing, each person must have submitted oral or written comments, recommendations, or objections to the local government or the school board before the adoption of the interlocal agreement by the school board and local government. The district school board and local governments are parties to any such proceeding. In this proceeding, when the state land planning agency finds the interlocal agreement to be consistent with the criteria in subsection (2) and this subsection, the interlocal agreement shall be determined to be consistent with subsection (2) and this subsection if the local government's and school board's determination of consistency is fairly debatable. When the state planning agency finds the interlocal agreement to be inconsistent with the requirements of subsection (2) and this subsection, the local government's and school board's determination of consistency shall be sustained unless it is shown by a preponderance of the evidence that the interlocal agreement is inconsistent.~~

~~(c) If the state land planning agency enters a final order that finds that the interlocal agreement is inconsistent with the requirements of subsection (2) or this subsection, it shall~~

~~forward it to the Administration Commission, which may impose sanctions against the local government pursuant to s. 163.3184(11) and may impose sanctions against the district school board by directing the Department of Education to withhold from the district school board an equivalent amount of funds for school construction available pursuant to ss. 1013.65, 1013.68, 1013.70, and 1013.72.~~

(4) If an updated executed interlocal agreement is not timely submitted to the state land planning agency for review, the state land planning agency shall, within 15 working days after the deadline for submittal, issue to the local government and the district school board a Notice to Show Cause why sanctions should not be imposed for failure to submit an executed interlocal agreement by the deadline established by the agency. The agency shall forward the notice and the responses to the Administration Commission, which may enter a final order citing the failure to comply and imposing sanctions against the local government and district school board by directing the appropriate agencies to withhold at least 5 percent of state funds pursuant to s. 163.3184(11) and by directing the Department of Education to withhold from the district school board at least 5 percent of funds for school construction available pursuant to ss. 1013.65, 1013.68, 1013.70, and 1013.72.

Section 4. Paragraph (c) of subsection (2), paragraph (f) of subsection (5), subsection (7), paragraphs (e), (f), (g), and (h) of subsection (13), and paragraphs (a), (b), (c), (e) and (f) of subsection (16) of section 163.3180, Florida Statutes, are amended to read:

163.3180 Concurrency.--

(2)

(c) Consistent with the public welfare, and except as otherwise provided in this section, transportation facilities needed to serve new development shall be in place or under actual construction within 3 years after the local government approves a building permit or its functional equivalent that results in traffic generation. For purposes of this paragraph and all provisions relating to transportation concurrency, if the construction funding needed for facilities is provided in the first 3 years of the Department of Transportation's work program or the local government's schedule of capital improvements, the under-actual-construction requirements of this paragraph shall be deemed to have been met.

(5)

(f) Prior to the designation of a concurrency exception area, the Department of Transportation shall be consulted by the local government to assess the impact that the proposed exception area is expected to have on the adopted level-of-service standards established for Strategic Intermodal System facilities, as defined in s. 339.64, and roadway facilities funded in accordance with s. 339.2819. Further, the local government shall, in cooperation with the Department of Transportation, develop a plan to mitigate ~~any~~ impacts to the Strategic Intermodal System, including, if appropriate, the development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d). The exceptions may be available only within the specific geographic area of the jurisdiction designated in the plan. Pursuant to s. 163.3184, any affected person may challenge a plan amendment establishing these guidelines and the areas

within which an exception could be granted. By October 1, 2006, the Department of Transportation, after publicly noticed workshops, shall publish and distribute to local governments a policy guideline containing criteria and options to assist local governments in planning to assess and mitigate the impacts of a proposed concurrency exception area as described in this paragraph.

(7) In order to promote infill development and redevelopment, one or more transportation concurrency management areas may be designated in a local government comprehensive plan. A transportation concurrency management area must be a compact geographic area with an existing network of roads where multiple, viable alternative travel paths or modes are available for common trips. A local government may establish an areawide level-of-service standard for such a transportation concurrency management area based upon an analysis that provides for a justification for the areawide level of service, how urban infill development or redevelopment will be promoted, and how mobility will be accomplished within the transportation concurrency management area. Prior to the designation of a concurrency management area, the Department of Transportation shall be consulted by the local government to assess the impact that the proposed concurrency management area is expected to have on the adopted level-of-service standards established for Strategic Intermodal System facilities, as defined in s. 339.64, and roadway facilities funded in accordance with s. 339.2819. Further, the local government shall, in cooperation with the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including, if appropriate, the

development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d). Transportation concurrency management areas existing prior to July 1, 2005, shall meet, at a minimum, the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last. The state land planning agency shall amend chapter 9J-5, Florida Administrative Code, to be consistent with this subsection. By October 1, 2006, the Department of Transportation, after publicly noticed workshops, shall publish and distribute to local governments a policy guideline containing criteria and options to assist local governments in planning to assess and mitigate the impacts of a proposed concurrency exception area as described in this paragraph.

(13) School concurrency shall be established on a districtwide basis and shall include all public schools in the district and all portions of the district, whether located in a municipality or an unincorporated area unless exempt from the public school facilities element pursuant to s. 163.3177(12). The application of school concurrency to development shall be based upon the adopted comprehensive plan, as amended. All local governments within a county, except as provided in paragraph (f), shall adopt and transmit to the state land planning agency the necessary plan amendments, along with the interlocal agreement, for a compliance review pursuant to s. 163.3184(7) and (8). The minimum requirements for school concurrency are the following:

(e) Availability standard.--Consistent with the public welfare, a local government may not deny an application for site plan, final subdivision approval, or the functional equivalent

for a development or phase of a development authorizing residential development for failure to achieve and maintain the level-of-service standard for public school capacity in a local school concurrency management system where adequate school facilities will be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval, or the functional equivalent. School concurrency shall be satisfied if the developer executes a legally binding commitment to provide proportionate fair-share mitigation against ~~to~~ the demand for public school facilities to be created by actual development of the property, including, but not limited to, the options described in subparagraph 1. Options for proportionate fair-share ~~proportionate-share~~ mitigation of impacts on public school facilities shall be established in the public school facilities element and the interlocal agreement pursuant to s. 163.31777.

1. Appropriate proportionate fair-share mitigation options include the contribution of land; the construction, expansion, or payment for land acquisition or construction of a public school facility; or the creation of mitigation banking based on the construction of a public school facility in exchange for the right to sell capacity credits. Such options must include execution by the applicant and the local government of a binding development agreement that constitutes a legally binding commitment to pay proportionate fair-share ~~proportionate-share~~ mitigation for the additional residential units approved by the local government in a development order and actually developed on the property, taking into account residential density allowed on the property prior to the plan amendment that increased overall

residential density. The district school board shall be a party to such an agreement. As a condition of its entry into such a development agreement, the local government may require the landowner to agree to continuing renewal of the agreement upon its expiration.

2. If the education facilities plan and the public educational facilities element authorize a contribution of land; the construction, expansion, or payment for land acquisition; or the construction or expansion of a public school facility, or a portion thereof, as proportionate fair-share ~~proportionate-share~~ mitigation, the local government shall credit such a contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis at fair market value.

3. Any proportionate fair-share ~~proportionate-share~~ mitigation must be directed by the school board toward a school capacity improvement identified in a financially feasible 5-year district work plan and which satisfies the demands created by that development in accordance with a binding developer's agreement.

4. This paragraph does not limit the authority of a local government to deny a development permit or its functional equivalent pursuant to its home rule regulatory powers, except as provided in this part.

(f) Intergovernmental coordination.--

1. When establishing concurrency requirements for public schools, a local government shall satisfy the requirements for intergovernmental coordination set forth in s. 163.3177(6)(h)1. and 2., except that a municipality is not required to be a

signatory to the interlocal agreement required by ss. 163.3177(6)(h)2. and 163.31777~~(6)~~, as a prerequisite for imposition of school concurrency, and as a nonsignatory, shall not participate in the adopted local school concurrency system, if the municipality meets all of the following criteria for having no significant impact on school attendance:

a. The municipality has issued development orders for fewer than 50 residential dwelling units during the preceding 5 years, or the municipality has generated fewer than 25 additional public school students during the preceding 5 years.

b. The municipality has not annexed new land during the preceding 5 years in land use categories which permit residential uses that will affect school attendance rates.

c. The municipality has no public schools located within its boundaries.

d. At least 80 percent of the developable land within the boundaries of the municipality has been built upon.

2. A municipality which qualifies as having no significant impact on school attendance pursuant to the criteria of subparagraph 1. must review and determine at the time of its evaluation and appraisal report pursuant to s. 163.3191 whether it continues to meet the criteria pursuant to s. 163.31777(6). If the municipality determines that it no longer meets the criteria, it must adopt appropriate school concurrency goals, objectives, and policies in its plan amendments based on the evaluation and appraisal report, and enter into the existing interlocal agreement required by ss. 163.3177(6)(h)2. and 163.31777, in order to fully participate in the school concurrency system. If

such a municipality fails to do so, it will be subject to the enforcement provisions of s. 163.3191.

~~(g) Interlocal agreement for school concurrency.--When establishing concurrency requirements for public schools, a local government must enter into an interlocal agreement that satisfies the requirements in ss. 163.3177(6)(h)1. and 2. and 163.31777 and the requirements of this subsection. The interlocal agreement shall acknowledge both the school board's constitutional and statutory obligations to provide a uniform system of free public schools on a countywide basis, and the land use authority of local governments, including their authority to approve or deny comprehensive plan amendments and development orders. The interlocal agreement shall be submitted to the state land planning agency by the local government as a part of the compliance review, along with the other necessary amendments to the comprehensive plan required by this part. In addition to the requirements of ss. 163.3177(6)(h) and 163.31777, the interlocal agreement shall meet the following requirements:~~

~~1. Establish the mechanisms for coordinating the development, adoption, and amendment of each local government's public school facilities element with each other and the plans of the school board to ensure a uniform districtwide school concurrency system.~~

~~2. Establish a process for the development of siting criteria which encourages the location of public schools proximate to urban residential areas to the extent possible and seeks to collocate schools with other public facilities such as parks, libraries, and community centers to the extent possible.~~

~~3. Specify uniform, districtwide level-of-service standards for public schools of the same type and the process for modifying the adopted level-of-service standards.~~

~~4. Establish a process for the preparation, amendment, and joint approval by each local government and the school board of a public school capital facilities program which is financially feasible, and a process and schedule for incorporation of the public school capital facilities program into the local government comprehensive plans on an annual basis.~~

~~5. Define the geographic application of school concurrency. If school concurrency is to be applied on a less than districtwide basis in the form of concurrency service areas, the agreement shall establish criteria and standards for the establishment and modification of school concurrency service areas. The agreement shall also establish a process and schedule for the mandatory incorporation of the school concurrency service areas and the criteria and standards for establishment of the service areas into the local government comprehensive plans. The agreement shall ensure maximum utilization of school capacity, taking into account transportation costs and court-approved desegregation plans, as well as other factors. The agreement shall also ensure the achievement and maintenance of the adopted level-of-service standards for the geographic area of application throughout the 5 years covered by the public school capital facilities plan and thereafter by adding a new fifth year during the annual update.~~

~~6. Establish a uniform districtwide procedure for implementing school concurrency which provides for:~~

~~a. The evaluation of development applications for compliance with school concurrency requirements, including information provided by the school board on affected schools, impact on levels of service, and programmed improvements for affected schools and any options to provide sufficient capacity;~~

~~b. An opportunity for the school board to review and comment on the effect of comprehensive plan amendments and rezonings on the public school facilities plan; and~~

~~c. The monitoring and evaluation of the school concurrency system.~~

~~7. Include provisions relating to amendment of the agreement.~~

~~8. A process and uniform methodology for determining proportionate-share mitigation pursuant to subparagraph (e)1.~~

(g) ~~(h)~~ Local government authority.--This subsection does not limit the authority of a local government to grant or deny a development permit or its functional equivalent prior to the implementation of school concurrency.

(16) It is the intent of the Legislature to provide a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors. The methodology used to calculate proportionate fair-share mitigation under this section shall be as provided for in subsection (12).

(a) By December 1, 2006, each local government shall adopt by ordinance a methodology for assessing proportionate fair-share mitigation options. A local government that fails to adopt a methodology for assessing proportionate fair-share mitigation options by December 1, 2006, may not, after that date, impose any

transportation impact fee until such methodology has been adopted. By December 1, 2005, the Department of Transportation shall develop a model transportation concurrency management ordinance with methodologies for assessing proportionate fair-share mitigation options.

(b)1. In its transportation concurrency management system, a local government shall, by December 1, 2006, include methodologies that will be applied to calculate proportionate fair-share mitigation. A local government that fails to include these methodologies by December 1, 2006, may not, after that date, impose any transportation impact fee until such methodologies been adopted. A developer may choose to satisfy all transportation concurrency requirements by contributing or paying proportionate fair-share mitigation if transportation facilities or facility segments identified as mitigation for traffic impacts are specifically identified for funding in the 5-year schedule of capital improvements in the capital improvements element of the local plan or the long-term concurrency management system or if such contributions or payments to such facilities or segments are reflected in the 5-year schedule of capital improvements in the next regularly scheduled update of the capital improvements element. Updates to the 5-year capital improvements element which reflect proportionate fair-share contributions may not be found not in compliance based on ss. 163.3164(32) ~~163.164(32)~~ and 163.3177(3) if additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed 10 years to fully mitigate impacts on the transportation facilities.

2. Proportionate fair-share mitigation shall be applied as a credit against impact fees to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the local government's impact fee ordinance.

(c) Proportionate fair-share mitigation includes, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities and may include public funds as determined by the local government. The fair market value of the proportionate fair-share mitigation shall not differ based on the form of mitigation. A local government may not require a development to pay more than its proportionate fair-share mitigation ~~contribution~~ regardless of the method of mitigation.

(e) Mitigation for development impacts to facilities on the Strategic Intermodal System made pursuant to this subsection requires the concurrence of the Department of Transportation. The department has 30 days from the date of submission by the applicable local government to concur or withhold concurrence with the mitigation of development impacts to facilities on the Strategic Intermodal System. If the department does not respond within the 30-day period, the department is deemed to have concurred with the mitigation.

(f) If ~~In the event the~~ funds in an adopted 5-year capital improvements element are insufficient to fully fund construction of a transportation improvement required by the local government's concurrency management system, a local government and a developer may still enter into a binding proportionate fair-share mitigation ~~proportionate-share~~ agreement authorizing

the developer to construct that amount of development on which the proportionate fair-share mitigation ~~proportionate share~~ is calculated if the proportionate fair-share mitigation ~~proportionate-share~~ amount in such agreement is sufficient to pay for one or more improvements which will, in the opinion of the governmental entity or entities maintaining the transportation facilities, significantly benefit the impacted transportation system. The improvement or improvements funded by the proportionate fair-share mitigation ~~proportionate-share~~ component must be adopted into the 5-year capital improvements schedule of the comprehensive plan at the next annual capital improvements element update.

Section 5. Subsection (17) of section 163.3184, Florida Statutes, is amended to read:

163.3184 Process for adoption of comprehensive plan or plan amendment.--

(17) A local government that has adopted a community vision and urban service boundary under s. 163.3177(13) ~~163.31773(13)~~ and (14) may adopt a plan amendment related to map amendments solely to property within an urban service boundary in the manner described in subsections (1), (2), (7), (14), (15), and (16) and s. 163.3187(1)(c)1.d. and e., 2., and 3., such that state and regional agency review is eliminated. The department may not issue an objections, recommendations, and comments report on proposed plan amendments or a notice of intent on adopted plan amendments; however, affected persons, as defined by paragraph (1)(a), may file a petition for administrative review pursuant to the requirements of s. 163.3187(3)(a) to challenge the compliance of an adopted plan amendment. This subsection does not apply to

any amendment within an area of critical state concern, to any amendment that increases residential densities allowable in high-hazard coastal areas as defined in s. 163.3178(2)(h), or to a text change to the goals, policies, or objectives of the local government's comprehensive plan. Amendments submitted under this subsection are exempt from the limitation on the frequency of plan amendments in s. 163.3187.

Section 6. Paragraph (a) of subsection (4) of section 339.2819, Florida Statutes, is amended to read:

339.2819 Transportation Regional Incentive Program.--

(4)(a) Projects to be funded with Transportation Regional Incentive Program funds shall, at a minimum:

1. Support those transportation facilities that serve national, statewide, or regional functions and function as an integrated regional transportation system.

2. Be identified in the capital improvements element of a comprehensive plan that has been determined to be in compliance with part II of chapter 163, after July 1, 2005, or to implement a long-term concurrency management system adopted by a local government in accordance with s. 163.3180(9) ~~163.3177(9)~~. Further, the project shall be in compliance with local government comprehensive plan policies relative to corridor management.

3. Be consistent with the Strategic Intermodal System Plan developed under s. 339.64.

4. Have a commitment for local, regional, or private financial matching funds as a percentage of the overall project cost.

Section 7. Subsection (10) of section 339.55, Florida Statutes, is amended to read:

339.55 State-funded infrastructure bank.--

~~(10) Funds paid into the State Transportation Trust Fund pursuant to s. 201.15(1)(d) for the purposes of the State Infrastructure Bank are hereby annually appropriated for expenditure to support that program.~~

Section 8. Paragraphs (l), (m), and (n) of subsection (24) of section 380.06, Florida Statutes, are amended to read:

380.06 Developments of regional impact.--

(24) STATUTORY EXEMPTIONS.--

(l) Any proposed development within an urban service boundary established under s. 163.3177(14) is exempt from the provisions of this section if the local government having jurisdiction over the area where the development is proposed has adopted the urban service boundary and has entered into a binding agreement with adjacent jurisdictions and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate fair-share mitigation ~~share~~ methodology pursuant to s. 163.3180(16).

(m) Any proposed development within a rural land stewardship area created under s. 163.3177(11)(d) is exempt from the provisions of this section if the local government that has adopted the rural land stewardship area has entered into a binding agreement with jurisdictions that would be impacted and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate fair-share mitigation ~~share~~ methodology pursuant to s. 163.3180(16).

(n) Any proposed development or redevelopment within an area designated as an urban infill and redevelopment area under s. 163.2517 is exempt from the provisions of this section if the local government has entered into a binding agreement with jurisdictions that would be impacted and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate fair-share mitigation ~~share~~ methodology pursuant to s. 163.3180(16).

Section 9. Subsections (2), (3), and (12) of section 1013.33, Florida Statutes, are amended to read:

1013.33 Coordination of planning with local governing bodies.--

(2)(a) The school board, county, and nonexempt municipalities located within the geographic area of a school district shall enter into an interlocal agreement that jointly establishes the specific ways in which the plans and processes of the district school board and the local governments are to be coordinated. Any updated ~~The~~ interlocal agreements and agreement amendments shall be submitted to the state land planning agency and the Office of Educational Facilities ~~and the SMART Schools Clearinghouse~~ in accordance with a schedule published by the state land planning agency pursuant to s. 163.3177(12)(i).

~~(b) The schedule must establish staggered due dates for submission of interlocal agreements that are executed by both the local government and district school board, commencing on March 1, 2003, and concluding by December 1, 2004, and must set the same date for all governmental entities within a school district. However, if the county where the school district is located~~

~~contains more than 20 municipalities, the state land planning agency may establish staggered due dates for the submission of interlocal agreements by these municipalities. The schedule must begin with those areas where both the number of districtwide capital-outlay full-time-equivalent students equals 80 percent or more of the current year's school capacity and the projected 5-year student growth rate is 1,000 or greater, or where the projected 5-year student growth rate is 10 percent or greater.~~

(b) ~~(c)~~ If the student population has declined over the 5-year period preceding the due date for submittal of an interlocal agreement by the local government and the district school board, the local government and district school board may petition the state land planning agency for a waiver of one or more of the requirements of subsection (3). The waiver must be granted if the procedures called for in subsection (3) are unnecessary because of the school district's declining school age population, considering the district's 5-year work program prepared pursuant to s. 1013.35. The state land planning agency may modify or revoke the waiver upon a finding that the conditions upon which the waiver was granted no longer exist. The district school board and local governments must submit an interlocal agreement within 1 year after notification by the state land planning agency that the conditions for a waiver no longer exist.

(c) ~~(d) Interlocal agreements between local governments and district school boards adopted pursuant to s. 163.3177 before the effective date of subsections (2)-(9) must be updated and executed pursuant to the requirements of subsections (2)-(9), if necessary. Amendments to interlocal agreements adopted pursuant to subsections (2)-(9) must be submitted to the state land~~

~~planning agency within 30 days after execution by the parties for review consistent with subsections (3) and (4).~~ Local governments and the district school board in each school district are encouraged to adopt a single updated interlocal agreement in which all join as parties. The state land planning agency shall assemble and make available model interlocal agreements meeting the requirements of subsections (2)-(9) and shall notify local governments and, jointly with the Department of Education, the district school boards of the requirements of subsections (2)-(9), the dates for compliance, and the sanctions for noncompliance. The state land planning agency shall be available to informally review proposed interlocal agreements. If the state land planning agency has not received a proposed interlocal agreement for informal review, the state land planning agency shall, at least 60 days before the deadline for submission of the executed agreement, renotify the local government and the district school board of the upcoming deadline and the potential for sanctions.

(3) ~~At a minimum,~~ The interlocal agreement must address ~~interlocal agreement requirements in s. 163.3180(13)(g), except for exempt local governments as provided in s. 163.3177(12), and must address~~ the ~~following~~ issues specified in s. 163.31777(2)~~:~~

~~(a) A process by which each local government and the district school board agree and base their plans on consistent projections of the amount, type, and distribution of population growth and student enrollment. The geographic distribution of jurisdiction-wide growth forecasts is a major objective of the process.~~

~~(b) A process to coordinate and share information relating to existing and planned public school facilities, including school renovations and closures, and local government plans for development and redevelopment.~~

~~(c) Participation by affected local governments with the district school board in the process of evaluating potential school closures, significant renovations to existing schools, and new school site selection before land acquisition. Local governments shall advise the district school board as to the consistency of the proposed closure, renovation, or new site with the local comprehensive plan, including appropriate circumstances and criteria under which a district school board may request an amendment to the comprehensive plan for school siting.~~

~~(d) A process for determining the need for and timing of onsite and offsite improvements to support new construction, proposed expansion, or redevelopment of existing schools. The process shall address identification of the party or parties responsible for the improvements.~~

~~(e) A process for the school board to inform the local government regarding the effect of comprehensive plan amendments on school capacity. The capacity reporting must be consistent with laws and rules regarding measurement of school facility capacity and must also identify how the district school board will meet the public school demand based on the facilities work program adopted pursuant to s. 1013.35.~~

~~(f) Participation of the local governments in the preparation of the annual update to the school board's 5-year district facilities work program and educational plant survey prepared pursuant to s. 1013.35.~~

~~(g) A process for determining where and how joint use of either school board or local government facilities can be shared for mutual benefit and efficiency.~~

~~(h) A procedure for the resolution of disputes between the district school board and local governments, which may include the dispute resolution processes contained in chapters 164 and 186.~~

~~(i) An oversight process, including an opportunity for public participation, for the implementation of the interlocal agreement.~~

(12) As early in the design phase as feasible and consistent with an interlocal agreement entered pursuant to subsections (2)-(8), but no later than 120 ~~90~~ days before commencing construction, the district school board shall in writing request a determination of consistency with the local government's comprehensive plan. The local governing body that regulates the use of land shall determine, in writing within 45 days after receiving the necessary information and a school board's request for a determination, whether a proposed educational facility is consistent with the local comprehensive plan and consistent with local land development regulations. If the determination is affirmative, school construction may commence and further local government approvals are not required, except as provided in this section. Failure of the local governing body to make a determination in writing within 90 days after a district school board's request for a determination of consistency shall be considered an approval of the district school board's application. Campus master plans and development

agreements must comply with the provisions of ss. 1013.30 and 1013.63.

Section 10. Paragraph (a) of subsection (2) of section 1013.65, Florida Statutes, is amended to read:

1013.65 Educational and ancillary plant construction funds; Public Education Capital Outlay and Debt Service Trust Fund; allocation of funds.--

(2)(a) The Public Education Capital Outlay and Debt Service Trust Fund shall be comprised of the following sources, which are hereby appropriated to the trust fund:

1. Proceeds, premiums, and accrued interest from the sale of public education bonds and that portion of the revenues accruing from the gross receipts tax as provided by s. 9(a)(2), Art. XII of the State Constitution, as amended, interest on investments, and federal interest subsidies.

2. General revenue funds appropriated to the fund for educational capital outlay purposes.

3. All capital outlay funds previously appropriated and certified forward pursuant to s. 216.301.

4.a. Funds paid pursuant to s. 201.15(1)(d).

b. The sum of $75 ~~$41.75~~ million from recurring funds in the Public Education Capital Outlay and Debt Service Trust Fund ~~of such funds~~ shall be appropriated ~~annually~~ for expenditure to fund the Classrooms for Kids Program created in s. 1013.735 and shall be distributed as provided by that section.

Section 11. Paragraph (a) of subsection (2) of section 27 of chapter 2005-290, Laws of Florida, is amended to read:

Section 27.

(2) The following appropriations are made for the 2005-2006 fiscal year only on a nonrecurring basis:

(a) From the State Transportation Trust Fund in the Department of Transportation:

1. One hundred seventy-five ~~Two hundred~~ million dollars for the purposes specified in sections 339.61, 339.62, 339.63, and 339.64, Florida Statutes.

2. Two hundred seventy-five million dollars for the purposes specified in section 339.2819, Florida Statutes.

3. One hundred million dollars for the purposes specified in section 339.55, Florida Statutes.

4. Twenty-five million for the purposes specified in section 339.2817, Florida Statutes.

Section 12. (1) The sum of $33.35 million in nonrecurring funds is appropriated from the Public Education Capital Outlay and Debt Service Trust Fund to fund the Classrooms for Kids Program created in s. 1013.735, Florida Statutes.

(2) The sum of $30 million from the Public Education Capital Outlay and Debt Service Trust Fund is appropriated each year for expenditures to fund the High Growth District Capital Outlay Assistance Grant Program created in s. 1013.738, Florida Statutes, and shall be distributed as provided in that section.

(3) The sum of $250,000 in recurring funds is appropriated from the Department of Community Affairs' Grants and Donations Trust Fund to support the Century Commission for a Sustainable Florida pursuant to s. 163.3247, Florida Statutes.

Section 13. This act shall take effect July 1, 2006.

CS/CS/CS SB 360
Policy Refinements

HOUSE GROWTH MANAGEMENT COMMITTEE
PCB 2 – POLICY REFINEMENTS - Concepts

PR1

- *De Minimis* Impact -- remove change from last year that required *de minimis* record keeping and reporting.

PR2

- Urban Infill – Prioritize urban infill and redevelopment by providing certain transportation facility concurrency waivers including waivers for municipalities that are "built-out."

PR3

- Charter county exception provision – IF development includes a certain percentage of workforce housing, then charter county provisions governing use, development, or redevelopment of land are not applicable to such development.

PR4

- Urban Infill Areas - Small scale plan amendment review applicable for certain amendments within urban infill areas.

PR5

- School Concurrency – Streamline and clarify school concurrency provisions which existing in two chapters.

PR6

- Capital Improvement Element - Citizen challenge to capital improvements element should not amount to a moratorium against other land use amendments.

PR7

- Transportation plan -- If you have a transportation plan and make financial commitments to fund the plan, then as long as local government follows the plan, they will be deemed to have met concurrency even if in a given year the transportation improvements are not current.

PR8

- Fiscal Impact Analysis Model – If FIAM is used in determining proportionate fair-share mitigation, then cannot increase existing level of service over 1 grade.

PR9

- Schools Interlocal Agreement – Existing law provides in two different sections that the public schools capital facilities program be adopted into the comprehensive plan and that it simply be included as data and analysis to support the public school facilities element. Amend the law to remove the requirement to adopt it into the comprehensive plan.

PR10

- DRI Exemptions - Transportation only review for DRI exemptions created last year for urban infill and for rural lands stewardship.

PR11

- Century Commission - Revise reporting structure for Century Commission; revise authority of Executive director to employ staff.

PR 12

- School capacity and land use amendments - Clarify that DCA should not have an independent basis for a non-compliance finding until the school elements and capital improvement plan provisions relating to schools have been adopted.

PR 13

- "Financially feasible" – Removal of requirement that comprehensive plans be "financially feasible." The capital improvement element (5 year capital improvement plan) remains financially feasible. This provides greater flexibility for comprehensive plans, particularly for local governments that have long term comprehensive plans, which by virtue of their duration cannot achieve financial feasibility for the entire comprehensive plan.

PR 14

- Direct the Department of Transportation to permit the use of urban attributable federal funds to be eligible as the local match for transit projects.

CS/CS/CS SB 360
New Issues

PCB 3 – NEW ISSUES:

N1

- Water Concurrency - DCA cannot deny a comprehensive plan amendment if local government submits letter from public water provider indicating that adequate water will be available.

N2

- TRIP Funding – Preference given to local governments that utilize their local options.

N3

- Conversion of rural lands to ranchette development - Use of Florida Forever funds as proposed in the Family Lands Preservation Act, for the purchase of temporary conservation easements to provide an option to conversion of these rural lands to ranchette development.

N4

- Trip Fee – Utilize a per trip fee in lieu of impact fees.

N5

- Sliding Scale Affordable Housing/Density Bonus - If 10% affordable housing, then 10% density bonus.

N6

- Confirm that no additional local review or approval of a change to an approved DRI is required by the DRI statute, s. 380.06, if the change is not a substantial deviation and is allowed by applicable local ordinance without further local review or approval.

N7

- Expedited permitting related to the development of affordable housing.

N8

- Require that written notice be given to municipalities and counties in advance of the commencement of construction materials blasting activities.